



**SPORT DISPUTE
SOLUTIONS IRELAND**

CASE STUDY

DISPUTE

This dispute was between an NGB and its board member. The board member was temporarily suspended on foot of an allegation of a breach of the board confidentiality.

The facts are that the board member, hereinafter referred to as the appellant, was approached by the president of the board at a board meeting and advised that there was an issue about confidential emails that were allegedly sent by the appellant to parties not entitled to receive them. When the appellant asked for details of the emails, the president refused to provide them but advised that the appellant would receive the emails at a later date. The appellant was also not permitted to be present at the board meeting when the issue was discussed.

The board discussed the issue in the absence of the appellant and decided to refer the matter to a review panel and to suspend the appellant.

The appellant was informed of the decision by a fellow board member, herein after called board member B, in a phone call shortly after the board meeting concluded. The appellant was then advised by board member B in an email, sent shortly after that telephone conversation, that he had been suspended, removed from the email circular between board members pending a review and that further information would be sent as soon as possible.

Just over two hours after that email, the appellant received an email from the president of the board providing particulars of the alleged breach of confidentiality.

The appellant wrote to board member B three days later taking issue with the suspension and requesting further information including the particulars of the allegations and the rules that it was alleged were breached.

The review panel was set up and wrote to the appellant five days later. The appellant did not engage with the review panel.

THE PROCESS

The appellant completed the JSI Notice of Appeal Form and submitted it to the JSI registrar by email eleven days after the initial board meeting and decision. The grounds of the appeal were that the board had no power to temporarily suspend him and that there was an absence of fair procedures in advance of the decision to suspend and/or refer the matter to the review panel. The JSI registrar acknowledged the appeal and advised the parties of that JSI was satisfied that there were ground for an appeal. She outlined the process to the parties by email, setting out the applicable timelines, the type of documentation required and whether the parties wanted to appoint a sole arbitrator or a three arbitrator panel. Once the fee was paid and an arbitrator selected a date was set for the arbitration.

THE ARBITRATION

The arbitration took place approximately two and a half months after the initial board meeting. Neither party was legally represented at the arbitration. It took place at the offices of JSI in Sports Campus Ireland and concluded within the day. The appellant had submitted detailed written submissions and furnished witness statements and other documentation with the Statement of Appeal. The NGB also submitted written submissions and supporting documentation with its Notice of Appeal . The appellant presented his case in the form of oral evidence followed by an oral submission. The appellant's witnesses confirmed the content of their witness statements. Those witnesses were cross examined by the NGB's representative. The NGB then presented its case relying on its written submissions and appendices. It also called witnesses and those witnesses were cross-examined in turn by the appellant. Finally, the appellant gave a very brief reply to the NGB's case and the matter concluded.

THE SOLUTION

Approximately one month later, the written decision of the arbitrator was published to the parties. He found that:-

1. the suspension was unjustified as there was no express power in either its bye laws or its constitution allowing the board to suspend a member;
2. the board had the power to refer the matter to a review panel;
3. there was a clear breach of fair procedures in not giving the appellant particulars of the allegations before it was considered at the board meeting; and the breach of fair procedures would have rendered the decision to suspend the appellant invalid even if the board had the power to suspend in the first place.

COSTS

The issue of costs was adjourned to allow the parties make written submissions. The submissions were within two weeks of the date of the decision and the arbitrator then made a further decision in relation to costs.

LEARNINGS

The process took less than four months from dispute to solution. Neither party was legally represented so the costs were significantly less than they might otherwise have been. The arbitrator provided a clear and reasoned award in a timely manner. On a general point, it is very important that before taking action an NGB must always ensure that its constitution permits it to take such action.