

Appeal of Crusaders FC v Irish FA Challenge Cup Committee

This case concerns an appeal against a decision made by the Irish Challenge Cup Committee on 21st May 2021. The Appeals Boards, on the agreement of both parties, heard this case on 26th January 2022. This appeal was held virtually via Zoom, with both parties and their representatives in attendance.

The Appeals Board were provided with detailed submissions from both parties to this case. Mr Kevin Morgan B.L. instructed by Patterson Rocks Solicitors appeared on behalf of the Appellant (Crusaders FC) and Mr Peter Hopkins B.L. instructed by King & Gowdy Solicitors represented the Respondent, IFA Challenge Cup Committee.

Background

The IFA Challenge Cup Committee ('ICCC') had been requested to consider an urgent protest from Crusaders FC ('the Club') arising from the outcome of an Irish Cup Semi-Final played on 18th May 2021 between 'the Club' and Larne FC. This game had gone to a penalty shoot-out, with Larne FC winning the game and securing a place in the Cup final scheduled to be played later that evening on 21st May 2021.

It is an agreed fact that, due to an administrative error, the Appellant had not received notification by email that their request was being accommodated and a protest hearing was to be heard on the morning of the 21st May. Due to the realisation that the Appellants were not in attendance, steps were taken to contact them. Once notified, the Appellants did promptly attend the protest meeting.

The Appellants' submissions did highlight their serious concerns regarding the actions and decisions of the referee during the Kicks From The Penalty Mark - ('The Shootout') and lengthy submissions were provided by the Appellant on how the original protest hearing should have interpreted the International Football Association Board's (IFAB) Laws of the game. It was emphasised by the Appellant that no criticism is directed at the opposing team Larne FC in the penalty shoot-out.

The Appeals Board did listen to the detailed submissions from both parties on the various issues raised, in particular, that which concerned how the referee's decisions during the shoot-out accorded with the opposing parties' interpretation of Rule 10 of the Laws of the Game.

Under Article 14, IFA Articles of Association, the Appeals Board are subject to the limitation that they are precluded from conducting a re-hearing of an original decision. We understand the desire and strength of feeling that has arisen from the match, but issues that were not presented before the original protest hearing will not form part of our consideration.

However, we have felt it is appropriate to consider the issue of procedural unfairness that has been raised by the Appellant. At the outset of the Appeal hearing the Appellant confirmed that the contents of the minutes of the protest meeting provided were an accurate account of how the hearing had progressed.

The Appellant presented the argument that they did not have an adequate opportunity to present their case, as a result of receiving very short notice of the start time of the hearing. Furthermore,

they submitted they did not have enough opportunity to address the expert report, provided to the Appellant and protest committee members that morning by Mr Nelson. This expert technical report by David Elleray, Technical Director of IFAB, considered the actions and decisions taken by the referee and concluded the breach of the 'IFAB' rules by the referee was a procedural error that would not have materially interfered with the outcome of the game. The Appellant advocated before the Appeal Board that the breaches were material and as a result of the breach of Rule 10, a penalty retake should have been ordered by the protest committee.

We appreciate the Appellant's dissatisfaction at receiving this expert report at the commencement of the protest meeting, at the same time as the protest committee members. However, according to the protest meeting minutes, the Appellant did not request an opportunity to either ask for a longer period of time to consider the report nor sought time to obtain evidence to rebut this report.

The Appellant stated they would have preferred their legal representative to be in attendance at the meeting but this was not taken any further, for example with a suggested time that they could attend that day. It also has to be borne in mind the final of the Cup was due to be played that evening, so it can be presumed all would have been acutely aware of the time pressures involved.

We do note how it was unfortunate that the Appellant had not been notified the previous evening that their request for an urgent protest hearing had been granted. This error seems to have occurred through the mistaken use of the Appellants email address on the Comet system as opposed to use of the email address from which the protest notice was sent. It is hoped this type of error can be avoided in future through a proper adequate checks system. However, despite this issue, we note the minutes of the meeting, conceded by the Appellant as being an accurate account of the protest meeting, do not show any request for a postponement of the hearing to a later time in the day, nor record on the part of the Appellant any concerns as to the procedural fairness of the hearing. There was no issue raised about the need for the attendance at the protest meeting of 'the Club' Manager, nor that the referee should be in attendance. And in fact, the Appellant proffered thanks at the end of the hearing as to how the meeting had been conducted.

The Appellant has submitted that, during the course of the protest hearing, unfair weight was given by the 'ICCC' to the material presented by the Chief Executive of the IFA, Mr Patrick Nelson. We recognise that this perception may be present in their minds, but we find nothing within the minutes of the hearing nor any other evidence within the papers to support the case that the protest hearing decision was arrived at because of Mr Nelson's role within the IFA. We have examined all the evidence in this Appeal and are of the view there is no evidence to support the case that the protest hearing proceedings were compromised and that an unfair hearing took place.

In terms of the Respondent seeking an order for costs, we are refusing this as it is not the practice of the Appeals Committee to award costs. It could possibly arise in frivolous or vexatious cases. But this is not the case here. We do consider that there was merit in the procedural issues raised by the Appellant. These did require thorough examination.

We therefore dismiss the appeal but do wish to thank both parties for their presentations and courteous manner with which they conducted the Appeal and to all who attended.

Appeals Board

Eileen Larkin (Chair)

Carley Shields

Ian Beggs

7/2/22