



TRANSFER REVIEW COMMITTEE

Appeal of Nick Rose

Attending

The following individuals attended the appeal:

Nick Rose- Complainant

Doug Luey- OLA Respondent

Stan Cockerton- OLA- Observer

Richard Rainey- Coquitlam Adanacs- Witness for complainant

Wayne Coley- Brooklyn Redman- Witness for respondent

Sohen Gill- BCLA- Interested party

Les Wingrove- Coquitlam Senior A- Witness for complainant

Hearing the matter were the following:

Jim Burke

Steve O'Shaughnessy

AJ Jomha

The following decision is from a hearing held on May 17, 2011. This matter was appealed by Nick Rose whose request for transfer pursuant to the Transfer Policy from the OLA to the BCLA was denied.

Facts

In the spring of 2010 Mr. Nick Rose requested a release pursuant to the Transfer Policy from the OLA to the BCLA which was denied. Mr. Rose appealed the decision to the Transfer Review Committee and that appeal also was denied. Notwithstanding the decision the teams reached an agreement for a one year release on the understanding that upon the completion of his rights returned to the OLA. At the conclusion of the 2010 year the evidence supports the position that Mr. Rose indicated to the Coquitlam Adanacs that he wanted to return for the 2011 season. It is Mr. Rose's evidence that he had contacted Mr. Coley after the 2010 season to



convey that he wished to continue his play in British Columbia. Mr. Coley agreed that he would negotiate with the Coquitlam team to allow Mr. Rose to play another one maybe two years in British Columbia. It is the evidence of all of the parties that there were conversations between Coquitlam and Brooklyn; however, no agreement was made between the parties. It was the evidence of Mr. Wingrove that three offers were made for the rights of Mr. Rose however; Mr. Coley refused all of the offers and did not provide a Counter Offer to any of the offers.

Decision

We find that Mr. Coley had promised to negotiate with Coquitlam for a release for at least the 2011 year but did not in fact negotiate in good faith. He refused to consider any offer and therefore breached his promise to Mr. Rose. Mr. Rose has brought this application under Section 18.4.12.1 which reads as follows:

18.4.12.1 “Should a team or player believe there are exceptional circumstances regarding the denial of a transfer, they can apply to the Transfer Review Committee, as defined in this Section, stating the exceptional circumstances. Grounds for permitting the transfer under the exceptional circumstances clause include but are not limited to the following:”

It is the Committees opinion that one must consider whether there was in this case, “exceptional circumstances” that would make Mr. Rose’s situation so unfair that the Committee must consider the circumstances and provide him with relief.

It is the finding of the Committee that Mr. Coley had made a promise to negotiate with Coquitlam for the transfer for at least one year of Mr. Rose; however, he failed to do so. We note throughout the evidence that was provided by Mr. Rose and by the evidence given by all the parties Mr. Coley was prepared to negotiate a release but nowhere was there evidence that he saw that he would guarantee an agreement. The failure in this instance is his neglect to negotiate. It appeared from the evidence that Mr. Coley and his board had a change of direction and were not prepared to release Mr. Rose



under any circumstances and for that reason he never provided a counter offer to Coquitlam. We wish to make it clear that we do not interpret the policy as saying that a club has an obligation to negotiate as there is nowhere in the policy that states that is a requirement, however, there is a duty to the player to act in good faith when they have made a promise to do so. Had Mr. Coley provided some Counter Offer with some basis to support his position then notwithstanding what the other side may have thought was reasonable or not reasonable would not have been relevant. Mr. Coley only had to make that counter offer to show that he had negotiated which he failed to do. Accordingly the Committee finds that Mr. Rose is entitled to a one year release.

Now that the Committee has found that Mr. Rose is entitled to his release, it is the Board's responsibility to determine compensation as required in Section 18.4.12.2 of the CLA Operating Manual. The Committee has no experience in determining the fair market value for such releases and therefore relied upon the evidence which had been provided at the hearing. According to the evidence provided by Mr. Rose he played 8 games of a 24 game season and the compensation of \$2,500.00 was paid by Coquitlam for those games. We considered that amount and adjusted it accordingly for a full season and then weighted it downwards in light of the reasons that this hearing was held. This amount does not take into consideration, nor can it, the difference in monetary compensation seen in the two MA's. Each are substantially different within their own markets and it is not the Board's responsibility nor do we feel it possible for us to find the market value of players. This should be left up to the teams themselves to determine.

Accordingly Nick Rose has a one year transfer to the MA of BCLA with his rights returning to Ontario in 2012. BCLA shall pay compensation to the OLA in the sum of \$5,000.00 for the 2011 season.

Transfer Review Committee