

Transfer Review Committee

Appeal of Denied Transfer of Simon Giourmetakis

June 7, 2010

Prior to the start of the hearing, the Chair went through a list of rulings re the proceedings. Included in this was that it was a hearing to interpret the operations policy and is not conducted by lawyers but by laymen. Some of the evidence that was presented by affidavit was not going to be admitted as it was received late and not all parties had the ability to review it in its entirety. If there was not agreement to proceed, there would have to be an adjournment to allow each party to review the evidence. All parties agreed to continue.

Another point was the ability of Jim Burke to sit on the panel. Mr Burke is a life member of the Alberta Lacrosse Association and knows some of the individuals personally. Neither party raised any objections so the hearing proceeded.

The Appellant presented his case based on 18.4.12.1 of the Box Sector Policy. He pointed out that this clause that the Appellant can apply if he feels there are exceptional circumstances regarding the denial of the transfer. While the policy gives some examples, the Appellant pointed out that the examples "are not limited" to the three examples quoted. In quoting the exceptional circumstances, he indicated there were six individual circumstances:

1. The current Coach and GM has shown disrespect to the player and the family. A number of e-mails certainly indicate that problems exist between the family and the team / GM as the relationship disintegrated over time and this is a consideration as an exceptional circumstance.
2. Problems between the two co-coaches have influenced the Eclipse decision and are being used to block this trade. The player's request has landed in the middle of this problem between the co-coaches. While there is written evidence to show that this relationship has become very strained, the verbal evidence would indicate that both co-coaches were involved in pursuing a move to Coquitlam. The issue was the terms of the deal and the urgency of the situation.
3. The Appellant feels he has gone as far as he can within the Alberta Lacrosse program and if he wishes to develop further, he needs to go to a higher caliber of lacrosse than is experienced in Alberta. This is not considered to be exceptional as other players within the Alberta system who have become the best players on their team may also be experiencing a similar situation.
4. There is a great deal of dysfunction in the Eclipse team involving a number of issues and the player feels that with what has gone on, it would be very difficult for him to return to this team. The Committee agrees that this is an exceptional circumstance given all of the hard feelings that have developed between the player, his family and the team.
5. The Appellant testified that he was given a verbal promise to leave the team after 4 years if they had not won the Minto Cup. The player testified to this and a number of e-mails made reference to this. The Eclipse denied it happened. While there was no clear evidence that this had been

done (nothing in writing at the time), this disagreement is one of the main issues in this dispute and certainly would be an exceptional circumstance.

6. The Co- Head Coach wrote in an e-mail dated September 23, 2009 that the Appellant has his permission and blessing to respond to inquiries from other teams and that he knew that he was made promises about going elsewhere as a 21 year old. He indicated that he would never stand in the way of his release. This adds further evidence to the fact that the Appellant was told he would be accommodated in a move. The Co-coaches were dismissed after this date so this writing was made while the Co-Coach was still involved and influential with the Eclipse. We also see this as an exceptional circumstance given the separation of the parties after this was communicated.

The Eclipse argued the following issues:

1. The Co-Coach was involved in every single trade as he controlled the finances for these issues. The Appellant provided e-mail evidence that he had made a number of trades on his own but there was no evidence by either side that both people jointly approved the trades.
2. This transaction was always considered to be a trade with considerations and not an unconditional release. We could find no evidence to dispute this and the Appellant witness also verbally confirmed he was looking at a trade.
3. Since RJ became the Coach and General Manager at the Annual General Meeting of the Eclipse, he has held a number of discussions with the Coquitlam team to try and move the player. To this date, they have not offered and realistic considerations for the trade.
4. The Eclipse held a number of discussions with a number of other teams but the Appellant did not return the calls or come to any agreement. He was focused on Coquitlam because as Host, they are a guaranteed Minto Cup participant.
5. The transfer policy was put in place partially to protect the Alberta Lacrosse Association from losing the talent it needs to improve and compete on the national stage. This is a fact.

The Coquitlam Junior A team presented that they had spent a great deal of time negotiating with the Eclipse. They found the negotiations very frustrating as the people doing the negotiating and the position taken by the Eclipse from time to time was inconsistent. Over time, the two parties have been closer to making a deal but nothing has been finalized at this point. The negotiations have been hampered by the Eclipse insistence that they need a similar calibre player to replace the player they are losing. Given the inter-provincial locations of the teams, this is difficult to achieve.

The Appellant rebutted with the following:

1. No evidence was presented to show that the Co-Coach / GM had to consult with each other prior to making a deal.
2. This player has fully developed his game in Alberta and has little chance of improving. He needs to go to a better calibre of game to improve. The policy states that it is to strike a balance between complete restriction and the free movement of players. Granting the appeal will allow this player to reach his full potential if a proper and fair deal is reached for all parties.
3. There was a question about why the player chose Coquitlam given that it is the Minto Cup Host. The Appellant stated that the reason for going there is the coaching of Curt Malawsky, a proven coach at this level who has developed a number of players who have progressed to the next level. The Appellant did his due diligence and felt it was a good match for him.

The Eclipse rebuttal addressed the fact that this was always to be considered to be a negotiated transfer as opposed to an unconditional discharge. The Committee agrees with this position as confirmed by both the e-mails evidence and the verbal testimony of Dave Pym.

Decision:

1. The Committee agrees that there are unusual circumstances involved in this transaction:
 - The dispute between the club and the former co-coach and the current GMN and Coach and the former Co-Coach.
 - The disintegration of the relationships between the player and the Club and his family and the Club.
 - The disarray evident within the Eclipse Club at the time these issues were going on.
2. The two clubs gave verbal evidence of the process on their transaction. Over time, the two teams came to a position on the consideration involved in the deal that was close to meeting each team's objectives financially.
3. The Eclipse was pushing to receive a player as part of the consideration. Transferring individual players inter-provincially is very difficult to achieve as a player cannot be transferred inter-provincially unless he agrees to go. In this case, Coquitlam did not have a player who would agree to go and cannot force someone to go.
4. Given the closeness of the two teams, the committee has decided that the trade should be consummated based on consideration of payment of \$ 4,000.00 from the Coquitlam team to the Eclipse. The teams are to be held to this decision and if the consideration is not paid, there will be no trade.