

**SPORT DISPUTE RESOLUTION CENTRE OF CANADA (SDRCC)
CENTRE DE RÈGLEMENT DES DIFFÉRENDS SPORTIFS DU CANADA (CRDSC)**

NO: SDRCC 24-0705

**FINN FINESTONE
(Claimant)**

AND

**CANADA SNOWBOARD (CS)
(Respondent)**

AND

**TRUTH SMITH
(Affected Party)**

Before:

The Hon. L. Yves Fortier, KC (Arbitrator)

Appearances and Attendances:

For the Arbitrator: Me Sacha Cannon, Assistant to the Arbitrator

On behalf of the Claimant: Finn Finestone, Athlete
Abbie Finestone, Representative
Brian Finestone, Representative

On behalf of the Respondent: Tyler Ashbee, Representative
Lucinda Jagger, Representative

For the SDRCC: Guillaume Boisseau, Case Manager
Yota Tahara, Intern

DECISION WITH REASONS

I. INTRODUCTION

- 1) This final Decision concerns the appeal by the Claimant of the Selection Decision of Canada Snowboard on 23 February, 2024, pursuant to which he was selected as the NextGen Alternate to represent Canada at the two last World Cup events of the 2023-2024 season in Tignes, France on 14-15 March 2024, and Silvaplana, Switzerland, on 21-24 March 2024. CS selected Truth Smith (the “**Affected Party**”) as the participating NextGen athlete¹.
- 2) I was appointed as Arbitrator by the SDRCC pursuant to the Canadian Sport Dispute Resolution Code (the “**Code**”) on 29 February 2024. The Parties agreed to my appointment as Arbitrator.
- 3) The Affected Party was requested by the SDRCC to sign and return a Confidentiality Agreement and his Intervention form in order to participate in these proceedings. The Affected Party signed and returned the Confidentiality Agreement but not his Intervention form. Consequently, the Affected Party did not participate in the arbitration proceedings.

II. CONTEXT

- 4) The Claimant is Finn Finestone. He is a member of the Canada Snowboard Slopestyle National team through the NextGen program.
- 5) The Affected Party is Truth Smith. He is also a member of the Canada Snowboard Slopestyle National Team through the NextGen program.
- 6) The Respondent is Canada Snowboard (CS), the National Sport Organization which governs the sport of Snowboarding in Canada. It provides high performance

¹ Claimant’s Submissions, C-03.

programming for athletes tracking towards Olympic podiums.

- 7) In May 2023, the Claimant was removed from the CS Slopestyle National Team prior to the completion of his contract on 31 May 2023.
- 8) In October 2023, following an SDRCC Resolution Facilitation, the Claimant and CS entered into a Settlement Agreement.
- 9) The Settlement Agreement provided for the reintegration of the Claimant on the CS National Team through the NextGen program for the 2023-2024 season.²
- 10) For the last two International Ski and Snowboard Federation (“FIS”) World Cup Events of the season in Tignes, France, and Silvaplana, Switzerland (the “**Events**”), CS was awarded six Male Quota spots by the FIS.
- 11) CS allocated five of these six spots (Priority 1) to members of the National Team in accordance with CS’s Selection Protocol for FIS Freestyle Events of 2023-2024 (the “**Selection Protocol**”).³
- 12) The Selection Protocol reads as follows:

Priority in the allocation of competitive opportunities is based on the following priorities in their respective discipline as follows:

- *Priority 1: National Team members*
 - *Priority 2: NextGen Team Members*
 - *Priority 3: All other interested Canadian athletes*
- a) *Athletes within the priorities will be ranked by gender according to their points (highest to lowest) on the World Snowboarding Points List (WSPL) in the respective discipline (SBS, BA*, HP) at the time of selection. The WSPL is based on FIS, and other professional events and can be found online at:*
<https://www.worldsnowboardfederation.org/wspl-ranking/>

***Note:** *For Big Air, competitors will be ranked according to their highest points between SS or BA. Ties will be broken by BA points.*

² C-04.

³ Respondent’s Submissions, R-02 & R-03.

- i. *Athletes may be ranked higher within the selection for the following key performance indicators which are tracked within the Canada Snowboard Athlete Gap Analysis and training log tools for each National and NextGen team athlete:*
 - 1. *A significant commitment (80%+) of training opportunities (on and off snow) as determined by their Individual Yearly Training Plan.*
 - 2. *Performance at On-Snow Sessions leading into a competition (using mock competitions results, the competition skills riders are doing, how well they are done and how often/reps)*

- ii. *Athletes showing a progression of results from National Level Events (as determined by the WSPL) including but not limited to Nor-Am and Europa Cups from the 2023/24 season leading into each World Cup selection may be moved higher in the ranking determined by their most recent results obtained in comparison to other eligible athletes in the selection.*

13) One spot remained open for an athlete member of the NextGen Team (Priority 2).

14) On 30 January 2024, CS's Slopestyle National Team Coach, Sam Weston, sent an email to the three members of the NextGen team: the Claimant, the Affected Party, and another athlete (who would eventually reply that he was not interested in being selected).

15) The e-mail reads in relevant part as follows:

[...]

Subject: *NG March World Cup Selection*

Date: *Tuesday, January 30, 2024 at 9:02:11 PM Pacific Standard Time*

From: *Sam Weston*

[...]

Hey guys,

We have just sent out communication and plans about the final two World Cup events of the year- Spindleruv and Silvaplana.

If there is an open quota spot (or spots) available, we will use the same selection for NG athletes that we used earlier in the season, outlined below.

While your rank and results from the current season are taken into consideration, we are looking at your current performance as well- what tricks you are doing, how well you are executing them, and how often you are doing them.

Seeing as we are not all together all the time, we are asking you to send us video and communicate with us about what you're up to. When/where are you riding, what are you working on and how is it coming along. We will need video to take into consideration for selection.

The selection date for each event will be 3 weeks prior to their start date. Spindleruv selection will be on Feb 19th and Silvaplana selection will be on Feb 26.⁴

Here's is the protocol that you can find on the Canada Snowboard Website.

[...]

Let us know if you have any questions or if we can better support you in the coming weeks. Cheers,

Sam Weston, ChPC | Canada Snowboard⁵

[...]

16) On 23 February 2024, CS published the list of selected athletes for the Events (the “**Selection Decision**”). It reads as follow:

FREESTYLE WORLD CUP TEAM SELECTION - TIGNES AND SILVAPLANA
February 23, 2024

In accordance with the 2023/24 Canada Snowboard Freestyle Event selection protocols, the following athletes have been invited to represent Canada at the following World Cups:

SLOPESTYLE

TIGNES, FRA - MARCH 14-15, 2024

SILVAPLANA, SUI - MARCH 21-24, 2024

- Cameron Spalding (Havelock, ON)
- Liam Brearley (Gavenhurst, ON)
- Nicolas Laframboise (St-Jean-Sur-Richelieu, QC)
- Francis Jobin (Lac Beauport, QC)
- Darcy Sharpe (Comox Valley, BC)
- Truth Smith (Whistler, BC)

⁴ R-02.

⁵ R-02 (my emphasis).

- Jasmine Baird (Georgetown, ON)
- Laurie Blouin (Quebec, QC)
- Emeraude Maheux (Saint-Faustin-Lac-Carré, QC)
- Juliette Pelchat (Whistler, BC)
- *Alternate 1: Finn Finestone (Whistler, BC)*

APPEAL PROCESS

A notice of appeal, as described in the Appeals Policy, must be sent directly to the Independent Third-Party Ombudsman:

Brian Ward
safesport_wwdrs@primus.ca

And cc: High-Performance Director
Tyler Ashbee (Park & Pipe)

Any person wishing to appeal a selection decision must do so in accordance with the Canada Snowboard Appeals Policy,

The deadline for appeals of the selections listed in this announcement is March 1, 2024 at 5:00 pm PST.

For further information, contact:

TYLER ASHBEE
High-Performance Director – Park & Pipe
tyler@canadasnowboard.ca

Home, Slopestyle, World Cup, Style⁶

17) As noted, the Claimant was selected as an Alternate. The Affected Party was selected as the NextGen participating member.

18) On 27 February 2024, the Claimant filed his Request for Arbitration with supporting Exhibits (C-01, C-02, C-03 & C-04). He appealed the Selection Decision.

19) On 28 February 2024, the Respondent submitted its Answer with supporting Exhibits (R-01, R-02 & R-03).

⁶ C-03.

- 20) As noted earlier, I was appointed as Arbitrator on 29 February 2024.
- 21) The Administrative meeting was held on 29 February 2024.
- 22) The Preliminary meeting was held by conference call also on 29 February 2024.
- 23) In view of the urgency of the matter, it was decided that the Parties would file consecutive written submissions on 1 March 2024 and a hearing would be held by videoconference on 4 March 2024.
- 24) On 1 March 2024, the Parties filed their written submissions (C-05 & R-04).
- 25) On 4 March 2024, the hearing was held by videoconference.
- 26) The Claimant testified and was cross-examined during the hearing.
- 27) The Respondent did not call any witness.
- 28) Both Parties made oral submissions.
- 29) On 5 March 2024, both Parties, as I directed, filed short written post-hearing submissions (C-06 & R-05).
- 30) On 5 March 2024, I issued my short decision. I rejected the Claimant's appeal.

III. POSITION OF THE PARTIES

CLAIMANT

- 31) The Claimant requests that the CS Selection Decision be modified and that he be named as the NextGen participating athlete representing Canada at the Events instead of the Affected Party.
- 32) The Claimant submits several arguments in support of his appeal, including:
 - a) He is the only member of the CS National Slopestyle Team who has not been given a World Cup start this season, notwithstanding the fact that his current World Snowboard Tour ranking and Rev Tour results are better than those of the

Affected Party.

- b) CS's Selection Protocol is subjective and based on scoring by coaching staff who always underscored his efforts.
- c) CS did not give him equal treatment for the selection of the last Priority 2 quota spot compared to other athletes on the NextGen team.
- d) CS continued a pattern of favouritism, bias and neglect against him despite the terms of the Settlement Agreement of October 2023 after a SDRCC Resolution Facilitation.

RESPONDENT

33) CS requests that the Claimant's appeal be dismissed and that its Selection Decision be upheld, with the Affected Party as the participating NextGen member representing Canada at the Events.

34) CS submits several arguments:

- a) The Decision made by CS was made in accordance with the Selection Protocol which used objective criteria.
- b) CS National Team Coaches and Strength and Conditioning Coaches gave equal opportunity to all the NextGen athletes to qualify for World Cup starts.
- c) All NextGen athletes were told that they needed to submit video of their performances which would be taken into consideration for selection and the Affected Party was the only athlete who submitted his video on time.
- d) The Claimant's statement that he has attended all training camps and regularly trains in the gym is "exaggerated".

35) In its Response, CS provided the following detailed information "gathered up to Feb 19, 2024 from the World Snowboarding Point List website, the coaches training logs for each

athlete about the on snow days and training, and the off-snow attendance was provided by the Strength and Conditioning coach at CSI-P in Whistler”:⁷

A. World Snowboarding Points List

- Finn Finestone: 363.30
- Truth Smith: 315.29 (Frozen points due to injury)
 - Due to an injury to Truth last year in Feb 2023 (Calgary) and another one recently in early Feb 2024 (Mammoth) he has missed a significant portion of Slopestyle opportunities that were in his yearly training plan to increase his rank/points.

Clarification: Finn does rank higher than Truth on the WSPL

B. On Snow Days of programming attended/available:

- Finn Finestone: 31.25% (5/16) days of training with program
 - Did not attend Finland training camp missing 7 on snow days with team, and missed 2 days of January Whistler Session due to illness
 - Was not on the team for AUS/NZL Camps
- Truth Smith: 97.5% (39/40) days of training with program
 - Additional days available as Truth was on the team for a longer period for the 23/24season.
 - Missed 1 day due to illness in Finland

Clarification: Truth has missed a single day due to sickness and is showing a significant commitment (80+%) to his on snow training, and contrary to Finn’s submission since being on the team (September 20, 2023 reference in C-04) he has not attended all training as the Finland training session ran November 14 – 25, 2024 which was an offered opportunity to Finn that was declined.

C. Off-snow (Gym, warm ups, recovery sessions) of programming attended/available

- Finn Finestone:
 - At the time of selection Finn was noted as attending 7/16 sessions at a 43.75% rate from January 2, 2024 to Feb 19, 2024
 - Current S&C Attendance since named to the team Nov 28 – Feb 29, 2024:

Finn	Session Offered	22	0	6	0	28	57%
	Coached Session Attended	8	0	8	0	16	
	Session Reported Complete	0	0	0	0	0	
	Session Missed	12	0	0	0	12	

- January Session - Gym sessions are accounted for above but Finn attended 1 of 4 or 25% of warm-ups prior to training on snow during the January Whistler Training session:

⁷ R-04, para 9.

	Warm Up				N	N		Y	N		1
	On Snow				Y	Y	Y		Y	Y	5
Finn	Active Recovery				Y	Y	Y	Y			4
	Physio				Y	N		Y	Y		3
	Lift/BFR Session						Y			Y	2

- Truth Smith
 - At the time of selection Truth was noted as attending 20/23 sessions at an 86.95% rate from January 2, 2024 to Feb 19, 2024 (Truth had additional days available due to being back in Whistler from sustaining an injury in Mammoth)
 - Current S&C Attendance Sessions tracked from May 22, 2023 to Feb 29, 2024:

Truth	Session Offered	92	1	5	0	98	93%
	Coached Session Attended	71	1	4	0	76	
	Session Reported Complete	14	0	1	0	15	
	Session Missed	7	0	0	0	7	

- January Session - Gym sessions are accounted for above but Truth attended 5 of 5 or 100% warm-ups prior to training on snow during the January Whistler Training session:

	Warm Up	Y	Y			Y	Y		Y	Not present	5
	On Snow	Y	Y			Y	Y		Y	last	5
Truth	Active Recovery	Y		Y	Y	Y	Y	Y		day of	6
	Physio	Y	Y	Y	Y	Y	Y	Y		camp	7
	Lift/BFR Session	Y	Y	Y		Y	Y				5

- To note: Truth was named to the team earlier and also had additional days available due to returning home early from mammoth WC from a sustained injury.

Clarification: Truth is showing a significant commitment (80+%) to his off-snow (gym, warm up and recovery) sessions. Finn is below the 80+% threshold outlined in the criteria.

D. January Whistler Training Session tricks landed:

- Finn: Backside 10, 12, Frontside 12, Cab 9, 10, 12, SWBS 9 pullback, 10, 12
- Truth: Backside 10, 12, 14, 16, Frontside 10, 12, 14 and Cab 12, 14

Clarification: Finn was spinning all 4 directions up to 12 and Truth was trying and landing more tricks that score higher in our sport which was including 3 x 1440's (BS, FS & Cab) and a BS 1620

E. Video Submission Skills

- Finn: No submission to the coaches or uploaded to iCloud folder in the requested time frame by Feb 19, 2024.
 - *Video submission uploaded to Finn's iCloud folder was done on Feb 20 with 2 video files a BS12 to Cab12 line in Whistler and video from January Copper Nor-am Training on 3 jump line including SWBS 12, back 10, front 7.
 - No larger spins which are judged higher (14s or 16s)

- *Truth: Cab 12, BS12, Multiple landed BS14s and some BS16 attempts, plus videos of rail tricks. Uploaded to iCloud folder in requested time-frame.*

Clarification: *Truth completed the task in the prescribed timeframe and continued to show higher scoring tricks (14s and 16s) in his training. Finn did not submit his video in the prescribed timeframe and is not demonstrating the higher scoring tricks for competition.*

F. Result Progression:

- *Finn Finestone: Edmonton Big Air World Cup 47th, Copper Nor-Am 8th, Mammoth Mountain Nor-Am 16th, and Sun Peaks Nor-Am 3rd*
 - *47th Edmonton Big Air World Cup – Attempted 3x cab 14's with none landed*
 - *3rd place in Sun Peaks, Finn was a favourite to win here already going into the event he was one of the highest ranked athletes in attendance. The event was on a smaller size course and the tricks Finn can do really well were favourable for him to win this event.*
- *Truth Smith: Edmonton Big Air World Cup 26th, Laax World Cup 28th, Injury during Mammoth World Cup training and missed Mammoth Nor-Am (Mammoth World Cup ended up cancelled due to weather)*
 - *28th in Laax, landed double rippler 10 - BS 12 - Cab14 in competition run for qualification*
 - *26th in Edmonton Big Air World Cup BS 16 landed in competition*

Clarification: *No result progression noted, Finn had similar results in the 22/23 season at similar competitions, and Truth's results are also similar to his previous season. Laax 28th is the only slopestyle event Truth's been able to attend since September in AUS due to the injury and cancellation in Mammoth.*

II. Conclusion:

The technical experts (National Team Coaches and Strength and Conditioning Coaches) and the selection protocol gave equal opportunity for all of the NextGen Athletes to qualify for World Cup starts. In High Performance Sport, there is equal opportunity however this does not equate to equal outcomes as performance is earned in large part to deliberate time on task.

The NextGen Athletes were all closely ranked and the selection committee followed the criteria to determine which of the athletes were best suited to achieve the best results. The data used is objective and determined if the athletes were showing a significant commitment to their training on and off snow, along with on-snow performance (including video submissions from when they're away from a training session), and the competition results progression.

The above submission demonstrates that Canada Snowboard made a decision aligned with the selection protocol. Leading to the nomination of Truth Smith for the European FIS World Cups ahead of Finn Finestone. Truth put in more time, commitment, and purposeful training in preparation for the opportunity to be nominated, attend and be competitive at the World Cups. Truth is attending more sessions on / off snow, and training at a higher level with multiple tricks (14s and 16s) which score higher in the judged sport. The same opportunities were given to Finn and he missed more days on / off snow which were available to him, he

did not train 14s or 16s during the lead up to the World Cup selection at the January Whistler session (or on the provided video footage).⁸

IV. ANALYSIS

36) Having carefully reviewed the evidence as well the written and oral submissions of the Parties, I have formed the view that I can decide this case on relatively narrow grounds.

37) At the outset, I note that this case does not concern a decision to select an athlete to a team, but rather the selection of an athlete who is already a member of the national team to participate in an event. Section 6.10 of the SDRCC Code therefore does not apply.

38) The scope of a Panel's review in an SDRCC arbitration is set out in Section 6.11 of the SDRCC Code. It reads as follows:

6.11 Scope of Panel's Review

(a) The Panel, once appointed, shall have full power to review the facts and apply the law. In particular, the Panel may substitute its decision for the decision that gave rise to the dispute or may substitute such measures and grant such remedies or relief that the Panel deems just and equitable in the circumstances.

(b) The Panel shall have the full power to conduct a hearing de novo. The hearing must be de novo where:

(i) the SO did not conduct its internal appeal process or denied the Claimant a right of appeal without having heard the case on its merits; or

(ii) if the case is deemed urgent, the Panel determines that errors occurred such that the internal appeal policy was not followed or there was a breach of natural justice.

(c) No deference need be given by the Panel to any discretion exercised by the Person whose decision is being appealed, unless the Party seeking such deference can demonstrate that Person's relevant expertise.

39) As an SDRCC Arbitrator, my remit does not consist in substituting my own opinion as to what constitutes the reasonable selection criteria which should be applied.

⁸ R-04, para 9 (my emphasis).

40) While I have the full power to review the facts and apply the law, I cannot rewrite a selection policy or re-design a selection process developed by experts in the sport.⁹

41) As specifically mentioned in Subsection 6.11(c) above, no deference is owed to the decision maker, unless he/she has any particular advantage, such as specialized knowledge or expertise relevant to the determination of the issue.¹⁰

42) In short, as is well established, my role is to determine whether the decision of a National Sport Organization such as CS, which is being appealed, is unreasonable or otherwise made in bad faith or in an arbitrary or discriminatory manner.¹¹

Issue 1: Was the Selection Protocol fair and reasonable?

43) Accordingly, the first issue to be decided is whether the Selection Protocol is fair and reasonable.

44) At the outset, I note that the Claimant had been notified by e-mail on 15 November 2023, and at an in-person meeting on 7 December 2024 attended by his agent, that the criteria had been modified for the 2023-2024 season.

45) The Claimant maintains that the “Selection Criteria used by CS is (sic) all subjective and based on scoring by coaching staff who continually underscores [his] efforts”.¹²

46) CS proffers that the Selection Protocol “is the deciding factor [...] to nominate the best possible athletes to participate in events. The criteria are published and shared publicly to provide a fair and due process for all athletes and is established for obtaining the best possible result probabilities. All athletes must meet and be selected based on the ranking process of the criteria”.¹³

47) CS concludes that the Selection Protocol includes objective criteria.¹⁴

⁹ *Blais v. WTF Taekwondo Association of Canada*, ADR 03-0016 (Pound)

¹⁰ *Adham Sharara v. Table Tennis Canada (TTCAN)*, SDRCC 18-0376 (Banack).

¹¹ *Rolland v. Swimming Canada - Natation Canada*, ADR 02-0011 (Clément) & *Marchant and DuChene v. Athletics Canada*, SDRCC 12 -0178 (Mew).

¹² C-05 p.2.

¹³ R-05 p.2.

¹⁴ R-04 p.6 & R-05, p.2.

48) Without any hesitation, I agree with CS and find that CS's Selection Protocol and the included criteria are fair and reasonable.

49) CS has provided convincing evidence that the Selection Protocol includes objective criteria which gave equal opportunity to all the NextGen Athletes to qualify for World Cup Events.

50) I agree with CS that the Selection Protocol "outlines in detail what athletes must do to be offered a CS quota spot to compete [...] The training and competition opportunities come at costs including financial, time and personal, for both the athletes and the organization."¹⁵

51) The CS mandate offers high-performance programming to athletes who have the potential to aspire to a world podium. As CS stresses, the Selection Protocol includes criteria that aspiring athletes must meet to obtain quota spots for events such as those at Tignes and Silvaplana.

52) In the context of high performance and high competition, the selection criteria included in the Selection Protocol of CS are reasonable. The evidence is clear that they were applied in an objective, reasonable and fair manner for both the Claimant and the Affected Party.

53) Having decided that the Selection Protocol was fair and reasonable, I now turn to the second issue: was the Selection Decision fair and reasonable.

Issue 2: Was the Selection Decision fair and reasonable?

54) The Claimant submits that CS did not provide him with an equal opportunity compared to other members of the NextGen team to participate in any World Cup event during the 2023-2024 season.

55) CS, on the other hand, replies that the data used by the Selection Committee is objective. The data "determined if the athletes were showing a significant commitment to their

¹⁵ R-05 p.1.

training on and off snow along with on-snow performance [...], and the competition results progression”.¹⁶

56) CS adds that it “made a decision aligned with the [S]election [P]rotocol” as the Affected Party “put in more time, commitment, and purposeful training in preparation for the opportunity to be nominated, attend and be competitive at the World Cups”.¹⁷

57) CS notes that “the same opportunities were given to [the Claimant] and he missed more days on / off snow which were available to him”.¹⁸

58) There is no need for me to analyze the data and information in respect of both the Claimant and the Affected Party which led to the Selection Decision as I see no reason not to defer to CS's expertise.

59) As demonstrated by CS, its Selection Committee was composed of technical experts, namely National Team Coaches and Strength and Conditioning Coaches. This was not contested by the Claimant.

60) Rather, the Claimant submits that he is a victim of bias and favoritism on the part of Canada Snowboard coaches.

61) This is pure speculation by the Claimant. He has submitted no evidence of bias or favoritism.

62) Indeed, the evidence is convincing that the information used by the CS Selection Committee, as noted above,¹⁹ is objective and based on objective criteria.

63) As a result, I find that the Selection Decision was based on Selection Protocol criteria which are fair and reasonable.

64) There is no evidence which supports the Claimant's complaint that the Selection Decision was unreasonable, arbitrary or rendered in bad faith.

¹⁶ R-04, p.6.

¹⁷ R-04, p.6.

¹⁸ R-04, p.6.

¹⁹ Para 35.

- 65) The evidence does show that the Claimant has better World Snowboard Tour rankings and World Snowboarding Points List than the Affected Party, but this was not the only criterion to be considered pursuant to the Selection Protocol and the Selection Committee.
- 66) I recall the evidence on the record that the Claimant declined and missed several training opportunities on and off snow with the National and NextGen teams.
- 67) There are two other matters which I need to address.
- 68) In its email of 30 January 2024, CS invited the NextGen team members to submit a video of their performance and ability to assist the Selection Committee in its selection. CS said very clearly “We will need video to take into consideration for selection.”²⁰
- 69) The Claimant admits that he did not submit his video within the prescribed timeframe.
- 70) This alone would be sufficient to exclude the Claimant from being considered by CS as a candidate for selection to represent Canada at the events.
- 71) The other matter is the relevance to the Selection Decision of the Claimant’s back injury which happened in 2022, and which he referred to for the first time in his Submission of 29 February 2024.
- 72) The injury was also mentioned when the Claimant testified and both Parties referred to it in their Post Hearing Submission.
- 73) I note that in its Post Hearing Submission, the Respondent also referred to an injury suffered by the Affected Party.
- 74) It is not clear to me whether or not these injuries featured in CS’s Selection Discussion.
- 75) However, assuming that it did, I defer to the specialized knowledge and expertise of the CS Team Coaches and Strength and Conditioning Coaches who made the Selection Decision.

²⁰ R-02.

76) In conclusion, I find, on the basis of the evidence before me, that the Selection Protocol is fair and reasonable and that the Selection Decision issued by the CS Selection Committee was also fair and reasonable.

77) In closing, I would like to commend and thank the Parties and their representatives for their written and oral submissions which I found very helpful.

V. DECISION

78) The Claimant's Appeal is dismissed and the Decision of CS is upheld.

Signed in Montreal on March 14, 2024

A handwritten signature in black ink, reading "L. Yves Fortier". The signature is written in a cursive style with a large, sweeping flourish at the end.

The Honourable L. Yves Fortier, KC, arbitrator