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

Citation: Armstrong v. Hockey Canada, 2025 CASDRC 12
NO: SDRCC 25-0767
Date : 2025-04-21

ALEX ARMSTRONG
(CLAIMANT)

AND

HOCKEY CANADA
(RESPONDENT)

REASONED DECISION

Representatives

For the Claimant:	Mr. Trent Morris (counsel)
For the Respondent:	Mr. Adam Klevinas (counsel)

I. INTRODUCTION

1. This is my decision on the application for Conservatory Measures related to the appeal by Alex Armstrong (the "Claimant") filed pursuant to Article 6 of the Canadian Sport Dispute Resolution Code (the "**Code**") against the Ruling of the Adjudicative Panel, File Number 23-0661 (the "**Decision**") by Kathleen Simmons (the "**Adjudicator**") issued on February 17, 2025, pursuant the Hockey Canada Discipline and Complaints Policy.

2. The Claimant was sanctioned with a warning and a suspension from acting as the Head Coach, assistant coach or any member of the coaching/bench staff for the Pembroke Lumber Kings (the "Team"), for the remainder of the current season and for the entirety of the 2025/26 season (the "Sanction").

3. The Claimant seeks dismissal of the complaints or, in the alternative, a *de novo* hearing. The Claimant also seeks to have the Decision stayed until the appeal is heard and determined.

4. The jurisdiction of the SDRCC is not disputed in this case.

II. THE PARTIES

5. The Claimant, Mr. Alex Armstrong, is the owner, general manager and former head coach of the Team in the Central Canada Hockey League ("CCHL") and the White Water Kings of the Eastern

Ontario Junior Hockey League, both of which operate within HEO, which is part of Hockey Canada.

6. The Respondent, Hockey Canada ("HC"), is the national governing body for amateur ice hockey in Canada. HC oversees the management and structure of programs in Canada from entry-level to high-performance teams and competitions.

III. BACKGROUND

7. On February 23, 2023, the Independent Third Party ('ITP') received an anonymous complaint ("Complaint No. 1") alleging that the Claimant had harassed and intimidated players on the Team. More specifically, Complaint No. 1 alleges that the Claimant (i) failed to supervise and attend practices and games, leading to instances of hazing and other forms of harassment among Team players, (ii) consumed alcohol during team bus travel and while behind the bench, and (iii) sought money from players' parents for "optional" skills development sessions by intimidating and threatening Team players.

8. The ITP determined that Complaint No. 1 would follow Process #2 of HC's Maltreatment Complaint Management Policy (the "Policy"), which required an investigation followed by adjudication. All maltreatment complaints made to HC are managed by an Independent Third-Party (an "ITP").

9. On May 16, 2023, HC's ITP appointed Paul Gee ("Investigator Gee"), of SportSafe Investigations Group, to investigate Complaint No. 1.

10. On January 18, 2024, A.B., a parent of a Team player, filed a complaint ("Complaint No. 2") alleging that the Claimant had breached applicable codes of conduct and/or policies by (i) mismanaging Team funds, (ii) repeatedly bullying [A.B.]'s child and other Team players during the 2022-2023 and 2023-2024 hockey seasons, (iii) conducting himself in ways that brought psychological harm to [A.B.] and her child, and (iv) fostering an unhealthy team environment during the 2022-2023 and 2023-2024 hockey seasons.

11. Investigator Gee finished writing his report ("Report No. 1") on June 6, 2024. The ITP provided a redacted version of Report No. 1 to the parties to Complaint No. 1 on August 13, 2024, and assigned the Adjudicator to adjudicate the matter.

12. In accordance with HC's Investigation Guidelines for Branches and Minor Hockey Associations, the ITP appointed Paul Gee as investigator. The Investigator released on July 10, 2024 a confidential report ("Report No. 2") concluding that the conduct of the Claimant did amount to a violation of the applicable Code(s) of Conduct.

13. By the Decision dated February 17, 2025, the Adjudicator ordered that the Claimant be suspended from coaching the Team for the remainder of the 2024-2025 season and the entire 2025-2026 season, which was a decision related to both HC 23-0661, HC 24-0150.

14. On March 19, 2025, the Claimant filed a Request with the Ordinary Tribunal of the SDRCC, to appeal the decision made by the Adjudicator. The Claimant filed an amended Request (the "Appeal") with the Ordinary Tribunal of the SDRCC on March 24, 2025.

15. On March 19, 2025, the Claimant also filed an Application for Conservatory Measures (the "Conservatory Measures") - Ordinary Tribunal under *Section 6.7* of the *Canadian Sport Dispute Resolution Code*, asking to stay the Decision pending hearing of the Appeal.

16. In its answer filed on March 24, 2025, the Respondent challenged the jurisdiction of the Tribunal to hear the Claimant's appeal against the decision rendered in File No. 24-0150. Additionally, the Respondent filed submissions in response to the Claimant's request for Conservatory Measures and requested that the Claimant's request for Conservatory Measures be dismissed.

17. The Claimant filed submissions regarding the SDRCC's jurisdiction on March 26, 2025, arguing that the SDRCC has jurisdiction because (i) the Adjudicator "*de facto*" consolidated Complaint No. 1 and Complaint No. 2 and (ii) the ITP had notified the Claimant that the appeal route in File No. 24-0150 was to the SDRCC.

18. In response to these supplementary submissions, on March 31, 2025, the Respondent filed submissions regarding the Claimant's request for Conservatory Measures and the jurisdiction of the Tribunal.

19. On March 31, 2025, the Claimant filed the Satisfaction of Undertaking of Counsel for the Claimant advising that the Pembroke Lumber Kings had been eliminated from the CCHL Playoffs on March 30, 2025, and that the Claimant maintained all of his requests but acknowledged that if the Jurisdictional Arbitrator required a number of more days or weeks to render her decision, such a period would not involve the Claimant missing further competitive games in the coming weeks.

20. On April 2, 2025, the Tribunal issued a short decision related to both the jurisdictional issue and the application for Conservatory Measures.

IV. APPLICABLE RULES

21. The following provisions of the Code apply to a request for Conservatory Measures:

5.4 Jurisdictional Arbitrator

(a) Where a Panel has not yet been appointed and a jurisdictional or procedural issue arises between the Parties which they cannot resolve, the SDRCC may appoint a Jurisdictional Arbitrator from the Rotating List.

(b) The Jurisdictional Arbitrator shall have all the necessary powers to decide:
(i) any challenge raised to the jurisdiction of the SDRCC;
(ii) whether to merge two or more cases filed before the SDRCC that involve most of the same Parties and share similar facts and issues, where Parties do not agree to merge the disputes;
(iii) a time-sensitive request to apply a Conservatory Measure pursuant to Section 6.7, where a Panel has not yet been appointed;
(iv) other issues that prevent the constitution of a Panel; Canadian Sport Dispute Resolution Code Page 18
(v) whether an Arbitrator shall be removed following a challenge of independence pursuant to Subsection 5.5(c); and
(vi) any other matter allowed in this Code to be decided by a Jurisdictional Arbitrator.

(c) The Jurisdictional Arbitrator's written decision with reasons shall be communicated to the Parties within ten (10) days of the last submissions made before the Jurisdictional Arbitrator.

(d) A Jurisdictional Arbitrator shall not render a decision on the main substantive issue or be appointed to a Panel to hear the main substantive issue in dispute between the Parties, unless expressly agreed by all Parties.

6.7 Conservatory Measures

(a) If an application for Conservatory Measure is filed, the Panel will invite all Parties to make submissions within the time limit established by the Panel. After considering all submissions, the Panel shall issue an order. In cases of urgency, the Panel may order Conservatory Measures upon mere presentation of the application, provided that any Parties so wishing shall be heard subsequently.

(b) Conservatory Measures may be made conditional upon the provision of security.

22. The relevant provisions of the Policy applicable to this jurisdictional arbitration regarding a request for Conservatory Measurers are as follows:

10. The presumption will be that the investigation report is determinative of the facts related to the Complaint. This presumption may be rebutted where a Party who does not agree with the findings of the report can demonstrate that there was a significant flaw in the process followed by the investigator or can establish that the report contains conclusions which are not consistent with the facts as found by the investigator. In situations where the presumption is rebutted, the Adjudicative Panel shall determine to what extent the investigation report will be accepted as evidence and to what extent a witness or Party may be required to give fresh evidence at a hearing. The Adjudicative Panel shall take a trauma-informed approach to all such determinations.

Reprisal and Retaliation

11. Subject to paragraph 12 of this Schedule "A", anyone who submits a Complaint to Hockey Canada, OSIC, or the ITP or who gives evidence in an investigation shall not be subject to reprisal or retaliation from any individual or group. Any such reprisal or retaliation may be subject to disciplinary proceedings pursuant to the Policy.

False Allegations

12. An Organizational Participant or Member Participant who submits allegations that the investigator determines to be malicious, false, not made in good faith, or made for the purpose of retribution, retaliation or vengeance may be subject to a Complaint under the terms of the Policy and may be required to pay for the costs of any investigation that comes to this conclusion. Hockey Canada or any Member(s) (as applicable), or the Organizational Participant or Member Participant against whom the allegations were submitted, may act as the Complainant.

V. APPLICATION FOR CONSERVATORY MEASURES

23. Each party to this dispute has delivered submissions on whether the Conservatory Measures should be granted.

24. The Claimant contended that the Sanction harms his livelihood because coaching and hockey operations are his principal sources of income.

25. The Claimant also argued that the Sanction affected the Team's success because at the time of the Decision, the Team was involved in the CCHL playoffs. Due to the Sanction, the Claimant

missed at least eleven games (later, the Claimant filed a satisfaction of undertaking advising that the Pembroke Lumber Kings were eliminated from the CCHL Playoffs on March 30, 2025).

26. The Respondent noted that the Claimant did not address the applicable legal tests that tribunals consistently use to evaluate requests for Conservatory Measures. The Respondent contended that the applicable test is outlined in *RJR-MacDonald Inc. v. Canada (Attorney General), [1994] 1. S.C.R. 311*.

Analysis

27. The Tribunal will apply *RJR-MacDonald Inc. v. Canada (Attorney General), [1994] 1. S.C.R. 311*. As set out in this case, there are three basic elements to be considered in the context of a request for Conservatory Measures:

    a. the existence of a serious issue to be tried;
    b. the likelihood of irreparable harm to the moving party; and
    c. the balance of convenience must favour the granting of the relief sought.

28. The Tribunal will deal with each in turn, bearing in mind that (i) the elements are not watertight compartments and (ii) the weighing of each element may vary in the circumstances (*see Smirnova v. Skate Canada (SDRCC 16-0291)*).

Existence of a Serious Issue

29. The Respondent conceded that there are serious issues to be decided in this matter. However, the Respondent argued that under *Smirnova*, this portion of the MacDonald test must take the likelihood of success into account. Considering *Smirnova*'s "reasonableness review", the Respondent argued that the Claimant is unlikely to satisfy his burden of proof to set aside the Decision, suggesting that the likelihood of success is low.

30. The Respondent argued that following the guidance provided in *Gagnon v. Racquetball Canada* (SDRCC 04-0016), there are no exceptional circumstances present in this matter to warrant a grant of Conservatory Measures. The Respondent contended that where due process rights were respected and where investigations appeared to be reasonable, an appeal does not constitute exceptional circumstances. Even further, the Respondent argued that there is nothing exceptional about a party disagreeing with the outcome of a disciplinary process or appealing a first instance decision.

31. The Tribunal finds there is a serious issue to be tried, but there is no strong *prima-facie case* - exceptional circumstances that would warrant granting the Conservatory Measures at this time.

Irreparable Harm

32. The Claimant contended that the Sanction harms his livelihood because coaching and hockey operations are his principal sources of income.

33. The Claimant also argued that the Sanction affected the Team's success because at the time of the Decision, the Team was involved in the CCHL playoffs. Due to the Sanction, the Claimant missed at least eleven games (later, the Claimant filed a satisfaction of undertaking advising that the Pembroke Lumber Kings were eliminated from the CCHL Playoffs on March 30, 2025). The Claimant further submitted that he was able to continue all his ownership and coaching duties

without incident pending the outcome of the investigation with respect to the complaints. He also noted that the Team's current players did not play for the Team at the time that the complaints were issued. Additionally, the Claimant contended that failures of natural justice and jurisdictional errors undermined his ability to defend against the complaints.

34. The Respondent argued that the Claimant would not suffer irreparable harm if the Sanction remained in place pending the outcome of the Appeal. The Respondent contended that under *MacDonald*, the Claimant must show that he himself, not the Team, will suffer irreparable harm. The Respondent asserted that the Claimant had not submitted evidence that he would incur financial losses by not acting as the Team's Head Coach, nor had he shown that his ownership of the Team was at risk. Moreover, the Respondent also argued that the Team had other coaches and was therefore adequately staffed to play in the CCHL playoffs without the Claimant. The Respondent submitted that it would be pure speculation to infer that the Claimant's presence would have made a difference in the outcome of any of the Team's games that he missed. Even further, the Respondent argued that the Claimant waited a month to file his Appeal before the Tribunal and that waiting that long was inconsistent with the Claimant's contention that he would suffer irreparable harm if the Sanction remained in force.

35. The Tribunal agrees with the Respondent; while the Claimant was removed from his hockey coaching position, his team administration role was not subject to sanctions and on the balance of probabilities, based on the evidence submitted, neither he nor the team will suffer irreparable harm.

Balance of Convenience

36. The Respondent argued that the assessment of balance of convenience entails an examination of whether the Claimant has raised an arguable case. From the Respondent's viewpoint, many of the Claimant's grounds of appeal are attempts to remedy the Claimant's procedural failures during the investigation (e.g., not responding to Investigator Gee, not providing the Adjudicator with questions for cross-examination, failing to provide submissions on the Sanction, etc.). As such, the Respondent contended that the Claimant had not raised a highly arguable case and that the balance of convenience should tilt away from the Claimant.

37. The Respondent also contended that the balance of convenience should favor protecting the current Team members rather than the Claimant's interest in returning to serve as the Team's Head Coach. Although none of the current Team members were involved in the 2022-2023 incidents that were the subject of the complaints, the Respondent argued that this fact does not justify putting the Team at risk of being subject to the Claimant's inappropriate conduct. Further, the Respondent noted that its interest in protecting the hockey community at large should outweigh the Claimant's interest in returning as the Team's Head Coach for a short duration.

38. The Tribunal, while also considering the maltreatment policy objectives, agrees and finds that on the balance of probabilities, the balance of convenience test has not been met.

Conclusion

39. For the foregoing reasons, the requirements set out in *RJR-MacDonald Inc. v. Canada (Attorney General), [1994] 1. S.C.R. 311* to grant Conservatory Measures are not met. The Claimant's application for Conservatory Measures is denied.

VII. DECISION

FOR ALL OF THESE REASONS, the Tribunal decides as follows:

1) The Application for Conservatory Measures is denied.

Signed in Sainte-Anne-des-Lacs, Quebec, this 21st day of April 2025.

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Andrea Carska-Sheppard, Arbitrator