

**SPORT DISPUTE RESOLUTION CENTRE OF CANADA
CENTRE DE RÈGLEMENT DES DIFFÉRENDS SPORTIFS DU CANADA**

No.: SDRCC 15-0253

IN THE MATTER OF AN ARBITRATION

BETWEEN: Ashley Kraayeveld (Claimant)

AND

Taekwondo Canada (Respondent)

AND

Siddhartha Bhat
Melissa Pagnotta (Affected Parties)

ARBITRATOR: Ross C. Dumoulin

REPRESENTATIVES:

For the Claimant: Paul-Erik Veel, Counsel
Laura Robinson, Student-At-Law

For the Respondent: Benoit Girardin, Counsel
Jamie Dos Santos,
High Performance Manager, Taekwondo Canada
Rebecca Khoury,
CEO, Taekwondo Canada

RULING ON APPLICATION FOR INTERPRETATION OF AWARD

May 22, 2015

This ruling concerns an application made by the Respondent, Taekwondo Canada, for the interpretation of this arbitration Panel's final and binding award on the merits that was rendered pursuant to paragraph 6.21 (a) of the Canadian Sport Dispute Resolution Code (2015) (the "Code").

The case pertains to a dispute between the Claimant, Ms. Ashley Kraayeveld, and Taekwondo Canada regarding the granting of funding under Sport Canada's Athlete Assistance Program (AAP).

On April 20, 2015, an arbitration hearing by conference call was held pursuant to section 3.12 of the Code.

On April 27, 2015, this Panel issued a final and binding award on the merits of the case.

On May 12, 2015, the SDRCC received from the Respondent a request for an interpretation of the above-noted award.

On May 15, 2015, a conference call was held between Mr. Paul Erik Veel, legal counsel for the Claimant, Mr. Benoit Girardin, legal counsel for the Respondent, and Ms. Cayley Jane Thomas, the Resolution Facilitator in this matter. The purpose of the conference call was for Ms. Thomas to provide her assistance to the parties in understanding the award pursuant to paragraph 6.23 (a) of the Code. After some discussion in the presence of the Resolution Facilitator, counsel for both parties agreed that the request for interpretation of

the award be submitted to this Panel pursuant to paragraph 6.23 (b) of the Code, which reads as follows:

After consulting with the RF, the Party may apply to the Panel for the interpretation of an award.

This ruling on the application for interpretation filed by the Respondent, Taekwondo Canada, is issued pursuant to paragraph 6.23 (c) of the Code.

In its request for interpretation, the Respondent states that it is making the request in order to ensure that Taekwondo Canada complies with this Panel's award. The Respondent alleges that the award is unclear, incomplete, or ambiguous.

The Respondent goes on to state that it is unclear what it is being asked to do in the final paragraph of the award. It asks what "results" does the Panel refer to where, on page 23, it orders the Respondent to undertake the process of comparing "the results obtained from February 13 to December 31, 2014..."

The Respondent asks in its request whether it is ordered to compare:

- only the WTF Olympic ranking adjusted for the Period?
- only results obtained at different events during the Period?
- both the WTF Olympic ranking adjusted for the Period and the results obtained at different events during the Period?

- both the WTF Olympic ranking as of December 31, 2014 and the results obtained at different events during the Period?

Finally, the Respondent asks in its request if all the 2015 AAP allotted cards are to be re-calculated based on the award.

In my view, this Panel's award, its rationale for the conclusion and the remedy ordered are clearly and completely expressed. This becomes especially evident when one reads the summary of the facts and the rationale for the decision that appears on pages 17 to 23. Nevertheless, pursuant to paragraph 6.23 (c) of the Code, the Panel will respond to the Respondent's application for interpretation in order to clear up any confusion that may exist in the minds of Taekwondo Canada and its counsel. It is important for the Panel to issue this ruling so that the Respondent properly implements the award.

On pages 2 to 4 of its award, this Panel reproduced the relevant portions of Taekwondo Canada's AAP Carding Criteria for 2015 Nominations, published on April 2, 2014. On page 4, the Panel cited section 6 of the said criteria that reads in part as follows:

6. Priority Order

6.1. Eligible athletes will be nominated for AAP support in the following priority order:

6.2. Athletes who meet the Senior International (SR1/SR2) card;

6.3. Athletes who were carded the previous year at the SR1 or SR2 card level and meet the Senior Injury card requirements.

6.4. Athletes eligible for SR/C1 cards; ...

On page 6 of its award, the Panel pointed out that Ms. Kraayeveld "applied for the Senior National SR/C1 card, as she did not meet the criteria for the Senior International SR1/SR2 card."

Also on page 6 of its award, the Panel explained in these words the priority given by Taekwondo Canada to the seven nominated athletes in accordance with section 6 of the carding criteria:

In accordance with section 6 of the carding criteria, the first three of the nominated athletes had met the criteria for the Senior International SR1/SR2 card. The four remaining nominated athletes were applying for Senior National SR/C1 cards.

On page 5 of its award, the Panel explained how the World Taekwondo Federation (WTF) Olympic Ranking of athletes is calculated:

The World Taekwondo Federation (WTF) Olympic Ranking of athletes is calculated as follows: the total points for each athlete are comprised of 25% of the points obtained at eligible events in 2011 + 50% of the points obtained at eligible events in 2012 + 75% of the points obtained at eligible events in 2013 + 100% of the points obtained at eligible events in 2014.

On page 6 of its award, the Panel outlined as follows the contents of an e-mail dated January 30, 2015 from Ms. Kraayeveld to Ms. Jamie Dos

Santos, the High Performance Manager for Taekwondo Canada, in which she asked for the selection of the nominated athletes to be reconsidered:

...Ms. Kraayeveld indicated in her e-mail that she had attained more international ranking points than any other Canadian athlete between the dates of February 13, 2014 and December 31, 2014. She produced a chart listing the athletes selected for AAP along with their total points. This chart indicates that the Athlete obtained a total of 89.2 points during the above-noted period, which is more than the points obtained by any other athlete listed in the chart. These facts are not disputed by Taekwondo Canada.

Then, on page 7 of its award, the Panel specified the international ranking points achieved by Ms. Kraayeveld at events held between February 13 and December 31, 2014:

More specifically, Ms. Kraayeveld was awarded the following international ranking points at these competitions from February 13 to December 31, 2014:

- 12 points for a second-place finish at the U.S. Open in February;
- 3.6 points for third place at the Mexico Open in July;
- 20 points for achieving first place at the Australian Open in August;
- 10 points for finishing first at the Costa Rica Open later in August;
- 40 points for first place at the Pan Am Senior Championships in Mexico in September (a G-4 event, one of high level);
- 3.6 points for third place at the Commonwealth Championships in Great Britain in November.

On page 21 of its award, the Panel emphasized that Ms. Kraayeveld "obtained more international ranking points than any other Canadian athlete between the dates of February 13, 2014 and December 31, 2014."

Moreover, on page 22, the Panel again highlighted the Claimant's achievements at events held during the same period:

The Claimant demonstrated "progressive improvement", an expression used in section 1.3 of the Introduction to the 2015 AAP carding criteria, and great promise in accumulating a total of 89.2 points from February 13 to December 31, 2014. More particularly, she captured three successive first-place finishes in August and September 2014, the latter result obtained at a high level G-4 event.

Also on page 22 of its award, the Panel decided in the following manner that section 4.1 of the carding criteria was the more appropriate criterion for AAP nominations:

In comparing section 4.1 and paragraph 7.2.2.1 of the 2015 carding criteria, this Panel finds, for the above-noted reasons, that the former provision is a more appropriate criterion for AAP nominations. It is based upon athletes' results over the most recent 10½-month period and this is how Taekwondo Canada proceeded in 2013 and 2014. It considered the events of the previous year.

The final paragraph of the Panel's award on page 23 reads as follows:

The first three of the seven nominated athletes in the case at hand had met the criteria for the Senior International SR1/SR2 card, in accordance with section 6 of the 2015 carding criteria. The four

remaining nominated athletes were applying for Senior National SR/C1 cards. Pursuant to section 4.1 of the 2015 criteria, only the results obtained from February 13 to December 31, 2014 of all eligible athletes applying for the four available SR/C1 cards, including those of Ms. Kraayeveld, should have been compared to determine the four remaining 2015 AAP nominations. It is hereby ordered that Taekwondo Canada undertake this process, that it publish the results and amend its nominations accordingly.

A reading of the above excerpts from the Panel's award makes it abundantly and repeatedly clear that the "results" it considered during the period of February 13 to December 31, 2014 were the total number of international ranking points obtained by the Claimant at the various events in which she competed. On page 6 of the award, the Panel referred to the fact that Ms. Kraayeveld obtained 89.2 of these international ranking points during the period in question. On page 7, the Panel specified the exact international ranking points awarded to the Claimant based upon her performance at events held during the period. In its rationale, on page 21, the Panel referred to the international ranking points she obtained. On page 22, the Panel again highlighted the fact that she captured three successive first-place finishes during the period in question.

Moreover, on page 22, the Panel decided that section 4.1 of the carding criteria was most appropriate because it is based upon "athletes' results over the most recent 10½ month period" and observed "this is how Taekwondo Canada proceeded in 2013 and 2014. It considered the events of the previous year."

The Panel explained on page 5 of its award that the WTF Olympic Ranking of athletes attributes 100% of the points obtained at eligible events in 2014. As the Panel's award makes clear, the period to be considered was from February 13 to December 31, 2014.

In light of the above, it is clear that the Panel repeatedly named and relied upon the results obtained at different events during the period in question to found its award. Therefore, the Panel ordered the Respondent to undertake the process of comparing the results of all eligible athletes applying for the four available SR/C1 cards, which is the second option listed in the Respondent's question.

In my view, it is quite clear, as stated in the final paragraph of its award, that the Panel ordered Taekwondo Canada to compare the above-noted results during the period in question "of all eligible athletes applying for the four available SR/C1 cards, including those of Ms. Kraayeveld ... to determine the four remaining 2015 AAP nominations." This, of course, makes sense because, as the Panel pointed out on page 6 of its award, the Claimant applied for a Senior National SR/C1 card, as she did not meet the criteria for the Senior International card. As the Panel cited in its decision, section 6 of Taekwondo Canada's AAP carding criteria gives first priority to athletes who meet the Senior International card. The priority given by Taekwondo Canada to the seven nominated athletes reflects this. The Panel's award does not pertain to the first three nominated athletes who had met the criteria for the Senior

International card, nor does it direct Taekwondo Canada to do anything with respect to these three athletes.

Dated at Ottawa this 22nd day of May, 2015.

A handwritten signature in cursive script, reading "Ross C. Dumoulin". The signature is written in black ink and is positioned above the printed name and title.

Ross C. Dumoulin
Arbitrator