



Gymnastics Canada v. Sport Canada



Introduction

- Claimant:** Gymnastics Canada Gymnastique
- Respondent:** Sport Canada
- Intervenor(s) or
Affected Parties:** Carly Orava, Demetra Mantcheva
- Type of Dispute:** Carding
- Arbitrator:** Michel G. Picher
- Date of Decision:** January 15th, 2007



Gymnastics Canada v. Sport Canada



Dispute Summary

Gymnastics Canada objected to a decision by Sport Canada to refuse Athlete Assistance Program (AAP) funding for rhythmic gymnast, Carly Orava.





Gymnastics Canada v. Sport Canada



Background Facts

Carly Orava, a member of the national rhythmic gymnastics team, was being considered for carded-athlete status. “Carding” provides an athlete with annual financial support from Sport Canada. Qualification depended on her performance through to the conclusion of the 2006 Canadian National Championships.

Yana Tsikaridze also competed as a senior athlete in the rhythmic gymnastics program. Demetra Mantcheva was a junior-ranked athlete at the time. Both were also in the running for carded status.

Gymnastics Canada consulted with Sport Canada to establish a priority order to select the four athletes who would receive annual funding:

1. Top ranked Senior
2. Top ranked “Senior Transition”
3. Second ranked Senior
4. Second ranked “Senior Transition”
5. Top ranked Junior
6. Second ranked Junior
7. Third ranked Senior

The criteria also stated that priority order had to be applied *prior to the retirement of gymnasts*.



Gymnastics Canada v. Sport Canada



Background Facts (cont'd)

A problem emerged as the National Championships approached.

Ms. Tsikaridze, one of the strongest senior athletes, wrote to Gymnastics Canada, indicating that she was contemplating retirement and wished to withdraw from the carding process.

Because the priority order specified that it would be applied *prior to retirement*, if Ms. Tsikaridze finished as the second ranked senior, it would mean that the top ranked junior would qualify for carding ahead of the third-ranked senior (see previous slide).

Gymnastics Canada contacted Sport Canada to confirm whether Ms. Orava could be carded in light of Ms. Tsikaridze's expected retirement. Sport Canada stated that would not be possible given the wording of the priority order.

Ms. Tsikaridze finished second at the 2006 Championships, ahead of Ms. Orava, who finished as the number three senior. Ms. Mantcheva was the top ranked junior.

Gymnastics Canada v. Sport Canada



Background Facts (cont'd)



Gymnastics Canada took the position that Ms. Tsikaridze had removed herself from the carding process. As a result, Ms. Orava effectively became the second ranked senior and eligible for Sport Canada funding.

However, Sport Canada rejected her application for AAP support.

Gymnastics Canada appealed that decision to the Sport Dispute Resolution Centre of Canada (SDRCC).



Gymnastics Canada v. Sport Canada



Claimant's Position

Gymnastics Canada's case was based on the following arguments:

- Yana Tsikaridze should not have been considered for AAP funding since she voluntarily withdrew from the carding process;
- Sport Canada should have done more to advise Gymnastics Canada prior to the 2006 National Championships; and,
- Carly Orava should be considered the second ranked senior athlete for the 2006-07 season and, therefore, be eligible for AAP funding from Sport Canada.



Gymnastics Canada v. Sport Canada



Respondent's Position

Sport Canada's case was based on the following arguments:

- Gymnastics Canada was obliged to follow the established carding criteria;
- Ms. Orava's application was rejected because Ms. Tsikaridze's name could not be removed or substituted under the established priority order. That order made it clear that rankings had to be applied prior to retirement;
- There was no provision that allowed Gymnastics Canada to alter the priority order by declaring that an athlete was voluntarily withdrawing from the carding process;
- Based on the application of the approved criteria, Ms. Orava was the third ranked senior and, therefore, ineligible for AAP support; and,
- As the top ranked junior, Ms. Mantcheva did qualify for Sport Canada funding.



Gymnastics Canada v. Sport Canada



Arbitrator's Analysis

In his decision, the arbitrator Michel G. Picher noted that the claim was purely about a disagreement concerning the interpretation and application of the Gymnastics Canada carding priorities, as approved and published.

He concluded, on that basis alone, that the claim had to be dismissed:

“The entitlement to carding is to be determined upon performance and performance only. Under the published rule, the retirement of a gymnast, or a gymnast’s intention to retire, can be of no consequence in assigning the priority order...When Gymnastics Canada saw that under its own criteria Ms. Mantcheva would gain carding status ahead of Ms. Orava, it attempted to disregard its own rules...”

Furthermore, there was nothing to establish that Sport Canada had violated the AAP policies, procedures and guidelines.



Gymnastics Canada v. Sport Canada



Ruling

The arbitrator dismissed Gymnastics Canada's claim for carding status on behalf of Carly Orava.





Gymnastics Canada v. Sport Canada



Lessons Learned

1. It is incumbent on national sport organizations (NSO) to seek formal guidance from Sport Canada in a timely fashion when contentious issues arise regarding the selection of athletes for carding.
2. Rules cannot be ignored only because they are not producing the desired result.

