

Decision of the Dispute Resolution Chamber

passed in Zurich, Switzerland, on 23 June 2005,

in the following composition:

Slim Aloulou (Tunisia), chairman

Maurice Watkins (England), member

Theo van Seggelen (the Netherlands), member

on the claim presented by the player

R, Brazil,

as Claimant

against the club

S, Russia,

as Respondent,

regarding a contractual dispute arisen between the parties.

I. Facts of the case

1. On 6 July 2003, the player R and the club S concluded an employment contract with validity from 6 July 2003 until 6 July 2006. The contract stipulated a monthly salary of USD 20,000, benefits, flight tickets Moscow – Porto Alegre – Moscow, rental of an apartment and a car and premiums in cash from USD 5,000 to USD 11,000 per match.
2. On 28 December 2004, the player turned to FIFA and alleged that the salaries of April and August 2004 had not been paid. Furthermore, the player had a 50% deduction from his salary in March 2004, as a fine for an alleged “uninterested conduct” during training sessions. Finally, the player emphasised that another harmful fact was that he had been placed from the “A” into the “B” team without reason. Therefore, the player was of the opinion that the aforementioned is enough grounds for termination of the contract with just cause and referred to the art. 12 of the Regulations governing the Application of the Regulations for the Status and Transfer of Players and art. 24 of the Regulations for the Status and Transfer of Players. The player claimed an amount of USD 50,000 for the 2½ months of salary, the equivalent to all premiums of the “A” team paid to other players during the year 2004 and that the Dispute Resolution Chamber pronounces the contract terminated.
3. Despite the invitation from FIFA, the club never answered to the claim of the player. Therefore, on 31 January 2005 the parties were advised to consider their labour relationship as terminated and to focus on the financial aspects of the dispute.
4. On 15 March 2005, the player confirmed his claim and added that the Dispute Resolution Chamber decides on the amount to be paid as indemnity to the player concerning the withdrawal of the car, which had a remuneration in natura character.
5. The Russian club answered on 30 March 2005 and alleged that the reclamations of the player have no basis as the player claimed premiums for games he did not play. The club stressed that the premiums were not between USD 5,000 and USD 11,000 but only USD 2,500 per match. The club emphasised that the player had not been fined because of “the lack of interest during trainings” but because of his unsatisfactory work. As for the salaries, the club did not contest to owe the player the salaries, however, alleged that the player perfectly knows that he must

sign a particular document when receiving the salary. Finally, the club claimed that the player had to return after the termination of his loan to the Brazilian club C, however, he did not do that.

6. On 8 June 2005, the player informed FIFA that he and the club where he had been loaned, C, had agreed to terminate the employment contract on 12 May 2005, thus on a date later than that on which S alleged the he had not returned to the club at the end of the loan period with C. In addition, the player recalled that even after the end of his loan contract he is legitimised to not return to the Russian club, as FIFA declared on 31 January 2005 the employment relationship between the parties as terminated. Finally, the player informed FIFA that the period during which he rendered his services for the "B" team of the Russian club was between March and September 2004, when he was then transferred on loan to C.

II. Considerations of the Dispute Resolution Chamber

1. The members of the Dispute Resolution Chamber were summoned to pass a decision on this matter by the Chairman pursuant to Article 1 par. 6 of the Rules Governing the Practice and Procedures of the Dispute Resolution Chamber.
2. The Dispute Resolution Chamber of the FIFA Players' Status Committee shall review disputes coming under its jurisdiction pursuant to art. 42 of the FIFA Regulations for the Status and Transfer of Players (edition September 2001) at the request of one of the parties to the dispute.
3. According to art. 42 par. 1 lit. (b) (i) of the Regulations for the Status and Transfer of Players (edition September 2001), the triggering elements of the dispute (i.e. whether a contract was breached, with or without just cause, or sporting just cause), will be decided by the Dispute Resolution Chamber.
4. If an employment contract is breached by a party, the Dispute Resolution Chamber is responsible to verify whether a party is accountable for compensation and outstanding payments.
5. Therefore, the members of the Dispute Resolution Chamber at first confirmed to be competent to pass a decision in this matter. In addition, the Chamber acknowledged the above-mentioned facts, as well as the further documentation contained in the file.

6. Subsequently, and entering into the substance of the matter, the Chamber considered that the player R and the club S signed a valid employment contract according to which the parties agreed on basic monthly salary in the amount of USD 20,000, benefits, flight tickets Moscow – Porto Alegre – Moscow, rental of an apartment and a car and premiums in cash from USD 5,000 to USD 11,000 per match.
7. Furthermore, the Chamber acknowledged that according to the player R the amount of USD 50,000 corresponding to 2½ monthly salaries has not been paid.
8. The Chamber observed that with regard to the salaries claimed by the player, S had explained that the player perfectly knows that he has to sign a particular document when he receives his salaries. In this respect, the Chamber pointed out that the club, however, never contested to still owe the amount of USD 40,000 to the player. As a consequence, the Chamber concluded that the club has in any case to pay the relevant sum to the player R.
9. In continuation, the Chamber stated that the allegations of the club that the player had been fined because of his unsatisfactory work are not substantiated. In particular, the club did not provide FIFA with any kind of evidence in that respect. Neither did the Russian club further specify, what exactly is meant by “unsatisfactory work” nor did it provide indication that the player had been previously warned of possible sanctions or that he received proper notification of the measures taken. On account of the foregoing, the Chamber deemed that the Russian club could not justify the reduction of the March 2004 salary by 50% and therefore the club has still to pay the relevant amount of USD 10,000 corresponding to half of the salary of March 2004 to the player.
10. In the light of all the above, the Chamber was of the opinion that the club did not respect its financial contractual duties, and therefore, the deciding body considered that the contract has been breached by the Russian club S.
11. Subsequently, the Chamber turned to the question of the claimed bonuses for the year 2004. In this respect, the Chamber stated that uncontestedly the player did not play in the “A” team of the Russian club during the period between March and December 2004. Therefore, the bonuses for matches of the “A” team are not due. To that regard, the Chamber underlined in particular that, unless specifically provided for in the relevant contract, the signature of an employment contract with a football team does not content automatically the entitlement of the player

to play for the first team of the club. Therefore, the Chamber rejected the claim of the player to be paid the equivalent of all bonuses of the "A" team paid to other players during the year 2004.

12. Consequently, having thus analysed each of the various aspects of the player's claim, as well as the club's defence statement in response, the Dispute Resolution Chamber concluded its deliberations by announcing that the player's claims were partially admissible.
13. Taking into account all of the above, the Chamber decided that the club S must pay the amount of USD 50,000 to the player R.
14. Finally, the Dispute Resolution Chamber decided that the contractual relation between the parties is terminated with immediate effect.

III. Decision of the Dispute Resolution Chamber

1. The claim of the player R is partially accepted.
2. The club S has to pay the amount of USD 50,000 to the player R **within the next 30 days** as from the date of notification of this decision.
3. Any further financial claims lodged by the player R are rejected.
4. In the event that the above-mentioned amount is not paid within the stated deadline, an interest rate of 5% per year will apply and the present matter shall be submitted to FIFA's Disciplinary Committee, so that the necessary disciplinary sanctions may be imposed.
5. The player R is directed to inform S immediately and directly of the account number to which the remittance is to be made and to notify the Dispute Resolution Chamber of every payment received.
6. The employment contract between the parties is terminated with immediate effect.
7. According to art. 60 par. 1 of the FIFA Statutes this decision may be appealed before the Court of Arbitration for Sport (CAS). The statement of appeal must be

sent to the CAS directly within 10 days of receiving notification of this decision and has to contain all elements in accordance with point 2 of the directives issued by the CAS, copy of which we enclose hereto. Within another 10 days following the expiry of the time limit for the filing of the statement of appeal, the appellant shall file with the CAS a brief stating the facts and legal arguments giving rise to the appeal (cf. point 4 of the directives).

The full address and contact numbers of the CAS are the following:

Avenue de Beaumont 2
1012 Lausanne
Switzerland
Tel: +41 21 613 50 00
Fax: +41 21 613 50 01
e-mail: info@tas-cas.org
www.tas-cas.org

For the Dispute Resolution Chamber:

Jérôme Champagne
Deputy General Secretary

Encl. CAS directives