

Decision of the Dispute Resolution Chamber

passed in Zurich, Switzerland, on 18 June 2009,

in the following composition:

Slim Aloulou (Tunisia), Chairman

Rinaldo Martorelli (Brazil), member

Mohamed Mecherara (Algeria), member

on the claim presented by the player,

O,

as Claimant

against the club,

L FC,

as Respondent

regarding an employment-related contractual dispute
arisen between the parties

I. Facts of the case

1. On 15 September 2007, the player O (hereinafter: *the player or the Claimant*) and the club L FC (hereinafter: *the club or the Respondent*) signed an employment contract (hereinafter: *the contract*) valid from 15 September 2007 until 15 September 2010.
2. The contract stipulated, most notably, that the player would receive a monthly salary of USD 1,200, as well as a monthly payment of 2,000 (USD 140) as pocket money.
3. The contract also stipulated that at the end of the contract, the club would purchase a plane ticket for the player to return to G.
4. On 27 May 2008, the player filed a complaint against the club in front of FIFA, claiming that he had returned to G in October 2007 at the request of the club, who had told him as well as other foreign players that he could spend holidays in G after the 2007 league season, and had promised to purchase a flight ticket for him in January 2008 so that he could return to the S. According to the player, although he had made numerous efforts to contact the club to ask it to send the return flight ticket, the club did not respond. The player also stated that he had discovered that his position as a foreign player had been assigned to another player. Furthermore, the player also claimed that the club had only paid him his salary for the months of September and October 2007. Consequently, the player asked to be released from his contract with the club.
5. On 19 June 2008, the club confirmed that it had signed a three-year employment contract with the player. However, in November 2007, the two parties had mutually agreed to terminate this contract because the player was homesick. Consequently, the club had purchased a plane ticket for him, as stipulated in the contract, and had also paid the player his salary up to December 2007.
6. On 4 July 2008, the player stated that the club had a register that players were required to sign before receiving their salary. Therefore, the club should be able to provide evidence that he had received his salary until December 2007.
7. In response, the club submitted a statement from one of its employees, stating that she witnessed the remittance of the salaries of November and December 2007 by the President to the player. The club also stressed that it would be rather illogical to allow a player to take holidays just two months after joining the team, especially as the contract explicitly stipulated that the club would

only purchase a plane ticket to enable the player to return to G at the end of his contract.

8. On 3 February 2009, the player notified FIFA that he was now claiming his salary for the period between November 2007 and February 2009, as well as his pocket money for the same period. This amounts to a total of USD 18,000 (15 x 1,200) as salary, and 30,000 (15 x 2,000; USD 2,100) as pocket money.
9. After having been informed of the player's amended claim, the club stated that it maintains its position.
10. On 17 March 2009, FIFA advised both parties to consider their labour relationship as terminated, without prejudice to the decision to be passed by the Dispute Resolution Chamber on the question whether the contract at the basis of the dispute was breached with or without just cause, and which party shall be deemed responsible for such breach.
11. On 26 May 2009, the player informed FIFA that he has been unable to find employment since returning from the S.

II. Considerations of the Dispute Resolution Chamber

1. First of all, the Dispute Resolution Chamber analysed whether it was competent to deal with the case at hand. In this respect, it took note that the present matter was submitted to FIFA on 27 May 2008. Consequently, the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber (edition 2005, hereinafter: the Procedural Rules) are applicable to the matter at hand (cf. art. 21 par. 2 and 3 of the Procedural Rules, edition 2008).
2. Subsequently, the members of the Chamber referred to art. 3 par. 1 of the Procedural Rules and confirmed that in accordance with art. 24 par. 1 and par. 2 in combination with art. 22 lit. b of the Regulations on the Status and Transfer of Players (edition 2008) the Dispute Resolution Chamber is competent to deal with the matter at stake, which concerns an employment-related dispute with an international dimension between a player and a club.
3. Furthermore, the Chamber analysed which regulations should be applicable as to the substance of the matter. In this respect, it confirmed that in accordance with art. 26 par. 1 and 2 of the Regulations on the Status and Transfer of Players (edition 2008), and considering that the present claim was lodged on

27 May 2008, the current version of the regulations (edition 2008; hereinafter: Regulations) is applicable to the matter at hand as to the substance.

4. The competence of the Chamber and the applicable regulations having been established, the Chamber entered into the substance of the matter. In doing so, the members of the Chamber started by acknowledging that the Respondent and the Claimant signed on 15 September 2007 an employment contract valid as from 15 September 2007 until 15 September 2010.
5. Furthermore, the Chamber noted that this contract stipulated, among other things, that the Claimant was entitled to receive a monthly salary of USD 1,200 and a monthly payment of 2,000 (USD 140) as pocket money.
6. Additionally, the Chamber acknowledged that two months after the signature of the contract, the Respondent purchased a plane ticket for the player to go back to G. In this regard, the Chamber noted that the parties do not agree on the purpose of the player's return to G. The Chamber took note that the player considers that his return to G was only for holidays after the 2007 league season and that the club would buy him an airplane ticket in January 2008 in order to enable him to go back to S and continue his football career with the club. On the contrary, the club considers that the return of the player to G was definitive, as the parties had allegedly agreed to terminate the relevant employment contract.
7. From the documents at its disposal, the Chamber noticed that the president of L FC seems to have been disappointed about the qualities of the services of the player in question and that the player's salary was considered relatively high by said president.
8. Considering the club's statements, the Dispute Resolution Chamber recalled that the club insists that the pertinent employment contract was terminated by mutual consent and that the player had duly been paid his salary for November and December 2007. Such position, however, is denied by the player. In this context, the members of the Chamber referred to art. 12 par. 3 of the Procedural Rules, and pointed out that the club did not submit any documentary evidence in support of its allegation that the parties would have agreed on the termination of the contract.
9. With respect to the salaries payable to the player on the basis of the employment contract, the Dispute Resolution Chamber acknowledged that the Respondent, in its submission, alleged having paid the player's salaries up to December 2007, which allegation, as stated above, is contested by the player. In this regard, the members of the Chamber noted that the club submitted a

statement of one its employees stating that she witnessed the remittance of the salaries of November 2007 and December 2007 by the president to the player. However, the members of the Chamber considered that taking into account the fact that the said declaration was signed by a person firmly connected to the Respondent and thus not independent from it in connection with the present matter, this document did not constitute sufficient documentary evidence to corroborate the allegations of the club, *i.e.* for having paid the salaries of November 2007 and December 2007.

10. In view of the above, the Dispute Resolution Chamber concluded that by sending the player back to G and by ceasing the payment of his salaries as of November 2007, the club clearly was no longer interested in the player's services. This conclusion seems to be confirmed by the considerations in point II. 7 above.
11. In light of all the above, the Dispute Resolution Chamber decided that the club acted in breach of contract without just cause and therefore has to pay compensation for breach of contract to the player in conformity with art. 17 par. 1 of the Regulations.
12. In this regard, the members of the Chamber recalled that the employment was to run until 15 September 2010. The player, for his part, claims his salaries for the period lasting from November 2007 until February 2009, amounting to USD 18,000, and his pocket money for the same period, amounting to 30,000 (USD 2,100).
13. In light of all the above-mentioned considerations, including the fact that the Claimant had not signed any new employment contract with another club, the members of the Chamber considered that the total amount claimed by the player is appropriate as compensation for breach of contract in the case at hand.
14. As a consequence, the Dispute Resolution Chamber concluded its deliberations on the present dispute by deciding that the Respondent has to pay the total amount of USD 20,100 as compensation for breach of contract to the Claimant.

III. Decision of the Dispute Resolution Chamber

1. The claim of the Claimant, the player, O, is accepted.
2. The Respondent, the club, L FC, has to pay to the Claimant the amount of USD 20,100 within 30 days as from the date of notification of this decision.
3. In the event that the amount of USD 20,100 is not paid by the Respondent within the above-mentioned time limit, 5% interest p.a. will fall due as of expiry of the aforementioned time limit and the present matter shall be submitted upon request to the FIFA Disciplinary Committee for its consideration and decision.
4. The Claimant is directed to inform the Respondent 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.

Note relating to the motivated decision (legal remedy):

According to art. 63 par. 1 of the FIFA Statutes, this decision may be appealed against before the Court of Arbitration for Sport (CAS). The statement of appeal must be sent to the CAS directly within 21 days of receipt of notification of this decision and shall contain all the elements in accordance with point 2 of the directives issued by the CAS, a copy of which we enclose hereto. Within another 10 days following the expiry of the time limit for filing the statement of appeal, the appellant shall file a brief stating the facts and legal arguments giving rise to the appeal with the CAS (cf. point 4 of the directives).

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

Court of Arbitration for Sport
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:

Markus Kattner
Deputy Secretary General

Enclosed: CAS directives