

IMPORTANT NOTE: *This version is a translation of the original French version.*

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

No: SDRCC 17-0323

**LAURENCE LAROCQUE
(CLAIMANT)**

AND

**RINGETTE CANADA (RC)
(RESPONDENT)**

DECISION

Procedural History

1. The Claimant, Laurence Larocque, is appealing the decision of the Ringette Canada High Performance Committee (RC or the Respondent) not to invite her to attend the selection camp for the Junior National Ringette Team that was held from May 18 to 22, 2017.
2. The Athlete first appealed the decision to the RC Appeals Panel pursuant to the “RC Appeal Policy.”
3. On May 16, 2017, the RC Appeals Panel rejected the Claimant’s appeal, and she then filed an appeal with the SDRCC.
4. The hearing of the appeal was expedited because the selection camp in question was to begin at 8:00 a.m. on May 18.
5. I was appointed as arbitrator by the SDRCC from its rotating list on May 16, at 9:45 p.m. and I held a preliminary hearing by teleconference at 7:15 a.m. on May 17, and then a formal hearing from 2:30 p.m. to 4:30 p.m. on May 17.
6. On May 17, 2017, at 5:00 p.m., I rendered and communicated my short decision pursuant to the Canadian Sport Dispute Resolution Code (January 1, 2015) as follows:

[TRANSLATION]

“I paid close attention to the facts and to all of the documentary and oral evidence that was submitted by both parties. The appeal is rejected and the initial decision of Ringette Canada is upheld.”

7. The reasons for my decision follow.

The Parties

8. The Claimant, Laurence Larocque, is an amateur ringette player in the National Ringette League (NRL) with Le Royal de Bourassa team, who seeks to become a member of the Junior National Ringette Team and participate in the Ringette World Championship.
9. Ringette Canada (RC) is the national organization responsible for all aspects of the sport of ringette in Canada. RC manages its high performance program, which governs the selection of the members of national teams, including the junior female team.

Jurisdiction of the SDRCC

10. This appeal has been brought before the SDRCC Tribunal by virtue of a written agreement and verbal confirmation of both parties. The parties have mutually recognized the SDRCC's jurisdiction to settle the dispute pursuant to article 22 of RC's Appeal Policy, which provides the following:

Final and Binding

22. The decision of the Panel will be binding on the Parties and on all Ringette Canada Individuals; subject to the right of any Party to seek a review of the Panel's decision pursuant to the rules of the Sport Dispute Resolution Centre of Canada (SDRCC).

11. I was appointed as arbitrator to hear the matter. My arbitration award is rendered pursuant to section 6.21 of the Canadian Sport Dispute Resolution Code.

Respective Positions of the Parties

12. I examined all of the documentary and oral evidence submitted. The respective positions of the parties may be summarized as follows.

The Claimant

13. The Claimant stated that she should have been selected for the RC training camp from May 18 to 22, 2017, and that the process followed by RC was unfair and unreasonable. She alleged that, contrary to the other athletes selected, the way and the different occasions she was or could have been assessed were unfair.
14. She requested to be added to the list of athletes invited to the selection camp.

The Respondent

15. Ringette Canada is contesting the appeal, affirming that it stringently adhered to its selection process in compliance with its High Performance Program guidelines.
16. The Respondent is requesting that the decision of the independent Appeal Panel, dated May 16, 2017, be upheld and the appeal rejected.

The Issue

17. The appeal to the RC Appeal Panel was based on the following grounds, which are provided in article 8 of its Appeal Policy:

[...]

b) Failed to follow its own procedures (as set out in the Respondent's governing documents)

[...]

e) Made a decision that was grossly unreasonable

18. The same grounds were submitted to the SDRCC.

19. I asked the parties at the hearing to specify that the appeal was from RC'S decision and did not concern the grounds of the RC Appeal Panel's decision, which would have required a judicial review.

20. The parties agree that the appeal strictly concerns RC's decision and that the issues to be determined by the SDRCC are the following:

- Were the established criteria and methods used by RC in its selection process respected and applied to the Claimant in a fair, equitable and reasonable manner?
- Should Laurence Larocque have been selected to attend the Junior National Ringette Team selection camp?

Applicable Regulations

21. Ringette Canada's rules and those of the Canadian Sport Dispute Resolution Code apply to this appeal. Some specific and relevant sections of these regulations are cited below.

Deliberations

RC's Selection Process

22. Article 9 of the Respondent's High Performance Program Policy provides the following: *"Ringette Canada will host selection camps for eligible athletes who want to be selected for the National Team."*

23. According to the Respondent, the athlete identification process for the 2017 Junior National Team was developed, approved and communicated to all interested parties, especially the athletes who indicated their interest in participating in the program, as did the Claimant.

24. The Claimant signed and confirmed her interest in participating in the program in July 2016, like 203 other athletes did (and according to RC, possibly 30-60 more, considering that 104 additional athletes checked a box on their form, indicating that they wanted to be "seen" by scouts, but some of them had not self-identified themselves). In the end, according to Frances Losier, Director of the RC High Performance Program, approximately

250 athletes wanted to be considered for the High Performance Program and to be selected for the training camp which is at issue in this case.

25. Frances Losier specified at the hearing that considering the number of student athletes to be assessed, RC realized it had an obligation to respect its athlete identification and selection process for the National Team Program, and a responsibility to apply its criteria uniformly and fairly. I consider that RC has discharged its duty for the following reasons.

Means of Communication

26. In her appeal, the Claimant specified that the information regarding scouting opportunities and Ringette Canada development camps and courses was not properly communicated.
27. RC affirmed that following the initial self-identification process in July 2016, it clearly communicated by various means the process that it would follow to observe and assess the interested athletes, including the activities and opportunities in which scouts would participate throughout the country. These communications were posted on social media, on its website and directly sent by email to registered athletes.
28. Email, social media and the web are three methods that are generally recognized as being sufficient and reasonable for communication purposes.
29. I reach the conclusion that the opportunities given to athletes to be seen by scouts were clearly communicated and specified by RC and that all RC communications dealing with the selection of athletes for the High Performance Program and for the Junior National Team had been sent to the Claimant and that she read or should have read them.

The Evaluation and Selection Process

30. According to the evidence submitted, the Respondent sent multiple communications to all individual athletes who expressed an interest in being seen by scouts to become members of the National Team and the RC High Performance Program.
31. On Friday, October 14, 2016, a “Reserve this Date” memo was posted on all its social media accounts, sent to RC’s distribution list and was directly emailed to all registered athletes (including the Claimant). This memo specified the dates and locations of the three development camps that were to be held.
32. The selection process was explained in an email of November 1st, 2016, which also provided a list of opportunities and activities for athletes to be seen. According to RC, the opportunities mentioned in that email had been also posted on its website since November 1st.
33. The posted selection process specified that athletes had three ways of being evaluated:
- During specific tournaments,
 - During the national tournament,
 - During development camps.

34. The relevant sections of the email of November 1st are as follows (the sections that are not relevant to this appeal are omitted).

[...]

Athlete Identification process

Three opportunities for athletes to be seen over the course of the season have been setup to ensure that as many athletes as possible are involved in our High Performance entry programs.

Please note that none of these activities are mandatory for selection to the Junior National Team. These are opportunities to be seen, athletes are free to participate in as many or are [sic] little of these events as they see fit.

Tournament Scouting

Attendance of National Team Scouts has been confirmed for the following events:

[...]

*What should I do to be seen?
If you are attending any of these tournaments and would like to be seen please complete the following form at least one week prior to the start of the tournament. This will ensure that the scouts can plan accordingly while at each event.*

[...]

Development Camps

These are opportunities for athletes to be seen by National Team coaches in a controlled setting. The purpose of these camps is to introduce potential Junior National Team athletes to the High Performance training environment, to the system play required and to introduce them to what it takes to transition into a High Performance athlete.

Three development camps have been confirmed:

Mississauga, ON – December 16-18, 2016 [...]

Montreal, QC (Saint-Roch-de-l'achigan) – December 27-29, 2016 [...]

Sherwood Park, AB – December 31 – January 2, 2017 [...]

Canadian Ringette Championships

National Team scouts will be on-site for the duration of the 2017 Canadian Ringette Championships.

[...]

35. According to Frances Losier, Director of the RC High Performance Program, these criteria are established by RC to allow their scouts to conduct unbiased and fair assessments of

the largest number of athletes, considering the size of Canada and the number of athletes to be evaluated. The selection of athletes who are invited to the training camp is done following this evaluation process. I conclude that this process is reasonable.

36. I note that, in spite of the fact that the Athlete submits she should have been notified of the opportunity to be seen by Head Coach Barb Bautista upon her visit to observe the senior team, this is an opportunity that is not specified in the selection process which is clearly described above and which is at issue in this case. Accordingly, little weight may be given to this argument.

The Claimant's Disadvantaged Situation

37. The Claimant alleges that some athletes were more likely to be evaluated than she was. These are circumstances beyond RC's control.
38. The Claimant claims that she did not attend any of the tournaments mentioned in the "Tournament Scouting" section because her team was not registered for them. She submits that she is accordingly at a disadvantage in comparison to other athletes who did attend these tournaments. I agree. However, this disadvantageous situation cannot be attributed to RC because it did not have prior knowledge of which tournaments athletes, including the Claimant, would attend, when assessment opportunities were planned.
39. The Claimant also argues that because her team did not qualify (and did not expect to qualify) for the nationals, she was also disadvantaged. I agree. However, once again, this situation cannot be attributed to RC as it had no prior knowledge of which teams and players would qualify for the nationals when it planned the assessment opportunities. I underline the fact however that the best teams and players attend this national tournament. It is accordingly reasonable and logical for RC to establish and offer opportunities to be seen at this tournament.
40. Lastly, the Claimant claims that because RC had clearly specified in its communications that the training camps were not mandatory, she did not know that she had to attend to have an opportunity to be seen and evaluated. Accordingly, because she did not attend any camp, she was once again disadvantaged in comparison to the other players. I agree. For the same reasons mentioned above, this disadvantage cannot be attributed to RC as it is up to individual athletes to register for these camps on the basis of their availability.
41. As RC contends, I believe that if the Athlete really considered that the camps were not mandatory and realizing that her opportunities to be seen on the basis of the criteria established by RC were already minimized and that she was disadvantaged in comparison to the other athletes, it was up to her to act accordingly and to contact RC to try to find another opportunity to be seen and evaluated by the scouts.
42. It is clear that RC encourages all athletes to be proactive in their selection process by inviting them to fill out the forms to be seen before tournaments or by underlining other opportunities as mentioned in its selection process. I cite for example their email of November 1st, 2016: *"If you are attending any of these tournaments and would like to be seen please complete the following form at least one week prior to the start of the tournament."* And: *"We encourage athletes to take the time to introduce themselves to the scouts at any time during the event."*

43. Following the communication of November 1st, 2016, up to the confirmation of the thirty-five (35) athletes selected to attend the training camp, the Claimant never, to her detriment, advised Ringette Canada of her concerns regarding the fairness of its process or of her concerns regarding the opportunities, or lack thereof, for her to be seen by scouts.
44. It was up to the Claimant to take measures to be seen and not up to the scouts to seek her out.

Training Camps

45. The same thing applies to the training camps. In support of this, the communication of November 1st specifies that these camps are one of the three opportunities to be evaluated by scouts and they “*are opportunities for athletes to be seen by National Team coaches in a controlled setting.*”
46. The Claimant alleges that because the camps were not mandatory, she did not know that she had to register for them “on a mandatory basis” to be assessed.
47. If she had followed up on the selection criteria and on the available opportunities clearly explained by RC, the Claimant would have attended one of the training camps.
48. Alternatively, realizing that she did not plan to attend the Montreal camp because of a family trip, nor the Mississauga camp because of a conflicting schedule with her own games, she should have taken concrete measures, like at least 10 other athletes did, and contact RC regarding her concerns about this.
49. Moreover, on December 2, 2016, the head coach of the Junior National Team, Lorrie Horne, contacted the Claimant and her mother, underlining the fact that the Claimant was not registered for the development camp being given in her region and to urge her to register for it. This email was sent to all NRL players (and to their coaches) who were possible candidates for the Junior National Team program, but who had not (yet) registered for a development camp.
50. The RC Appeals Panel ruled that RC showed due diligence when sending the players, including the Claimant, reminders about the available opportunities. I agree.
51. The Claimant argues that she never knew about Ms. Horne’s message but she does not however deny that it had been sent to her. In any event, she testified to the fact that she would not have attended the Montreal camp anyway, as she already had a family trip planned and would not have cancelled it to attend the camp.
52. RC acknowledges that these camps were not necessarily mandatory, but underlined the fact that this was another opportunity for the Claimant, among others which were no longer available to her, as explained above, to directly contact the head coach of the Junior National Team to explain her concerns about the process and the lack of opportunities to be seen by a member of the scouting team. I agree.

53. The Claimant explained that she could not attend the camps because of her schedule. However, considering the fact that she did not have the possibility of being assessed at the other opportunities offered by RC, it was up to her to seek out some other possible opportunities to do so and to change her priorities, even to forego one or two games with Le Royal de Bourassa to at least attend the Mississauga camp.
54. The prejudice the Athlete sustained resulted from her own behaviour and cannot be attributed to RC.

Parallel and Reciprocal Responsibility

55. I agree with the opinion of RC's Appeals Panel according to which RC was reasonably fair to the Claimant and to the other players and that:

[TRANSLATION]

"Where a sport association must treat all of its participants as fairly as possible, each one of them must at the same time take advantage of available opportunities or act accordingly."

56. I also agree with RC and RC's Appeals Panel that [TRANSLATION] *"athletes must assume a share of the responsibility in determining their goals and in establishing the means available to attain them."*
57. It is RC's responsibility to offer athletes reasonable opportunities to be seen by scouts, considering the size of Canada and the number of participants, to properly communicate these opportunities and apply them fairly. According to the evidence adduced, RC discharged its burden of proof.
58. RC even went beyond its responsibilities by directly contacting the athletes who had not registered for training camps and/or who had not yet had a chance to be properly evaluated, to urge them to register.
59. This is a clear indication for me that RC tried to ensure that those athletes who indicated their intention to be seen, including the Claimant, would have an opportunity to do so.
60. It is up to athletes to take steps to self-identify and be assessed, especially if they realize that they are disadvantaged by circumstances. This is what I consider to be a parallel and reciprocal responsibility.
61. The Claimant could and should have checked with RC about alternative possibilities for her, just as RC confirmed that other athletes in similar circumstances in fact did so.
62. RC Appeals Panel decided, and I share this view, that RC respected its responsibilities and showed due diligence by sending players, including the Claimant, reminders about available opportunities.
63. The Claimant did not show due diligence by not following up on these reminders and by not contacting RC about her concerns regarding available opportunities. She did not respect her parallel and reciprocal responsibilities by ignoring RC's criteria, advice and recommendations.

“Selection” at Camp

64. This is not a typical case of team selection or a carding dispute under section 6.7 of the Code. However, in this case, I must base myself on the principles applicable pursuant section 6.7, which reads as follows:

6.7 Onus of Proof in Team Selection and Carding Disputes

If an athlete is involved in a proceeding as a Claimant in a team selection or carding dispute, the onus will be placed on the Respondent to demonstrate that the criteria were appropriately established and that the selection or carding decision was made in accordance with such criteria. Once that has been established, the onus of proof shall shift to the Claimant to demonstrate that the Claimant should have been selected or nominated to carding in accordance with the approved criteria. Each onus shall be determined on a balance of probabilities.

65. The facts and principles applicable to the decision in *D’Alessio (SDRCC 10-0126 D’Alessio v. Canoe Kayak Canada; Richard H. McLaren)* are relevant to the facts at issue in this case. That decision established that if a sport organization’s selection criteria are not factually or validly challenged, that sport organization has discharged its burden of showing that the criteria were appropriately established, as required under section 6.7. In addition, if there is no proof that the selection decision was not made in compliance with the criteria established by the sport organization, that organization discharged its burden of showing that the decision was made in accordance with its criteria, as required under section 6.7.
66. Having determined that RC has properly established its selection opportunities and criteria and fairly and reasonably applied them, the examination required under section 6.7 is already completed.
67. Because this is not a typical selection case and that one of the specific issues raised by the parties at the beginning of the hearing is to determine if [TRANSLATION] *“Laurence Larocque should have been selected to attend the Junior National Ringette Team training camp,”* I must briefly deal with the next ground of appeal.
68. It is now up to the Claimant to discharge her burden of showing that she should have been selected among the group of 35, or to convince the Tribunal that she should be added to the selected group.
69. Articles 4 and 5 of the High Performance Program Policy read as follows:

Authority for High Performance Programs and Selection

4. The Board has delegated the authority for all decision-making under this Policy to the Director of High Performance and Events, and Ringette Canada’s Executive Director when executing the duties outlined in this Policy. Reporting to the Board will occur on an as required basis.

Goals/Objectives of Team Selection

5. The selection criteria shall be developed by the National Team Coaches and approved by the Director of High Performance and Events, and are designed to select athletes who will create the best possible competitive and cohesive team.

70. In this case, these policies empower RC to make selection decisions, in the present case for a camp, provided that such decisions are made on the basis of and in compliance with the goals/objectives of the High Performance Program.
71. There is no doubt that the Claimant is a successful ringette player and athlete. Among other things, she plays for Le Royal de Bourassa in the NRL after having completed her cadet year with Lac-Saint-Louis as the league's leading scorer.
72. RC however chose 35 athletes for the Junior National Team selection camp, more specifically 3 complete lines and 5 goaltenders, without applying any provincial representation. These three lines were formed by RC according to criteria that are unique to the sport of ringette and on the basis of their program objectives to make up the best possible and cohesive team.
73. The total number of 35 athletes is not arbitrary. RC confirmed that it was pre-established by the High Performance Program coaches and scouts. This decision was made by scouts, coaches and the Director of High Performance and Events, while respecting RC's goals and objectives mentioned above and taking into consideration the status of each athlete, her abilities, physical capacities, her position, etc.
74. The Claimant was simply not chosen.
75. I note in addition that RC confirmed that, at the last selection camp for the Junior National Team, the same number of athletes had been chosen, that is, 35.
76. The Claimant is seeking a new opportunity to be evaluated and it is not up to me to conduct this assessment, or to substitute or change RC's decision regarding the selection of the 35 invited athletes, or to reach the conclusion that their decision not to select the Claimant was unreasonable.
77. At the hearing, the Claimant's former coach testified to her skills and the Claimant also testified on this point in support of her submission that she should have been chosen. Not having any proof about the skills of those who were chosen, I cannot accept this argument.
78. On this point, I reach the conclusion that the decision in *Barlow v. Canadian Snowboard Federation* (SDRCC 14-0219; Carol Roberts) is applicable to this case. According to *Barlow*, a claimant who does not submit any proof in support of his arguments to the effect that he could have been selected in compliance with the criteria, cannot discharge his burden of proof to have a selection decision cancelled which was made on the basis of appropriately established selection criteria.

Conclusion

79. I reiterate the fact that selection decisions are always difficult to make, as the stakes for athletes are always important and I am always ready to listen to them.
80. Although I accept the fact that the Claimant did not have the benefit of the same evaluation opportunities as other athletes did, whether selected or not, RC cannot be blamed for the circumstances which are unique to the Claimant.
81. RC complied with its process as established and respected its criteria, which were clearly communicated to those who expressed their interest in being a member of the Junior National Team and in being evaluated for such purpose.
82. Because the Athlete was at a disadvantage, she should have undertaken steps to be seen at another time than those established by RC, or at least she should have notified RC about her concerns with that.
83. Knowing that she would not attend the designated tournaments and would not qualify for the nationals, attending one of the training camps (Montreal or Mississauga), although not mandatory for everyone (for clearly established and obvious reasons mentioned above) accordingly became necessary for the Claimant to have the opportunity to be assessed.
84. The fact that RC personally contacted her asking if she was going to register for the Montreal camp confirms that RC dealt with the matter fairly and did its best to give her the evaluation opportunities she so desired.
85. RC's decision not to invite her to its national selection camp was not unreasonable nor unfair, and must be respected.

DISPOSITION

86. The Claimant's appeal is rejected.
87. RC's decision not to select Laurence Larocque to attend the selection camp is confirmed.

Signed at Beaconsfield, Quebec, on May 31, 2017.

Janie Soublière, Arbitrator