

# Decision of the Dispute Resolution Chamber

passed in Zurich, Switzerland, on 2 November 2005,

in the following composition:

**Slim Aloulou** (Tunisia), Chairman

**Jean-Marie Philips** (Belgium), Member

**Ivan Gazidis** (United States), Member

**Mick McGuire** (England), Member

**Philippe Piat** (France), Member

on the claim presented by

**Player A,**

as Claimant

against

**Club B,**

as Respondent

regarding a dispute about  
the employment contract concluded between the parties.

## **I. Facts of the case**

1. The player A and the club B concluded an employment contract valid from 15 November 2003 until 30 April 2005, stipulating a monthly salary of USD 1,100.
2. In June 2004, the contract was terminated prematurely, and the player moved to a club in a third country with the approval of the club B.
3. On 5 July 2004, the player submitted to FIFA a claim against the club B for the salaries from March to June 2004, amounting to USD 3,500.
4. On 12 October 2004, the player raised his claim to the amount of USD 4,000.
5. On 8 December 2004, the club replied to the claim by providing copies of letters sent to the player in question on 29 January and 3 March 2004, by means of which it complained that the player had missed a match, resp. some training sessions, as well as by providing the copy of a letter sent to the Association of club B on 20 March 2004, by means of which it complained that the player would not comply with the club's regulations.
6. Furthermore, the club provided a copy of a letter sent to the Association of club B on 24 June 2004, by means of which the club informed that the player was released from his contract on 16 June 2004, and that the amount of USD 4,000 was paid to him in settlement of all debts.
7. With regard to the payment of the relevant amount of USD 4,000, the club presented an agreement dated 16 June 2004 and signed by the player, in which he acknowledged the receipt of USD 4,000 from the club in settlement of all debts.
8. On 13 December 2004, the club completed its reply, stating that the player's contract was terminated on 1 February 2004 due to misconduct.
9. Moreover, the club stated that the player was absent as of February 2004, and returned to the club on 16 June 2004, in order to obtain his release from the contract and the payment of all outstanding amounts in the amount of USD 4,000.
10. On 30 January 2005, the player submitted to FIFA his position towards the club's answers.

11. With respect to the termination of the contract on 1 February 2004, the player stated that such termination did not take place. On the contrary, he maintains having participated to all training sessions until the end of the season 2003/04 with a few exceptions due to an injury, and played a match with the team on 21 February 2004. In this respect, he referred to the letter dated 3 March 2004, submitted by the club in its answer on 8 December 2004, by means of which the club had complained that the player in question had not participated to a few practice sessions, and explained that if as claimed by the club that the contract was terminated on 1 February 2004, there would have been no need for such letter on 3 March 2004.
12. Regarding the settlement agreement dated 16 June 2005, the player stated that he would not know this document, moreover contested categorically having signed such document, and finally, maintained that the signature on the relevant document was not his signature, but a forgery.
13. As far as the amount of his financial claim was concerned, the player now explained that he had received during the entire factual duration of the contract the amount of USD 4,000. Taking into consideration that the contract had been in force during eight months (November 2003 to June 2004), he was entitled to a total amount of USD 8,800 on account of salaries. Therefore, he now specified his claim against the club to USD 4,800.
14. In continuation, despite having been requested several times to do so, the club did not provide FIFA with its answer to the player's second position, and moreover, also despite having been expressly requested, did not provide the original of the mentioned agreement dated 16 June 2004.
15. Note: According to the information provided by the Association of club B, the player A played with the club B in the period from February to June 2004 only one match, on 21 February 2004.

## **II. Considerations of the Dispute Resolution Chamber**

1. The members of the Dispute Resolution Chamber were summoned by the Chairman to pass a decision on the present matter pursuant to Art. 1 point 6) of the Rules Governing the Practice and Procedures of the Dispute Resolution Chamber.
2. The deciding body started its deliberations by indicating that, as established in Art. 42 § 1 lit. (b) (i) of the FIFA Regulations for the Status and Transfer of Players (hereinafter: the Regulations), it falls within the purview of the Dispute Resolution Chamber to determine whether one of the parties has committed a unilateral breach of contract without just cause. In the case that the employment

contract was breached by a party, the Dispute Resolution Chamber is responsible to verify and decide whether this party is accountable for outstanding payments and compensation.

3. In view of the above, the Dispute Resolution Chamber concluded that it was competent to decide on the present litigation.
4. The Chamber then acknowledged the documentation contained in the file and took note in particular of the fact that the contractual salary of the player was USD 1,100, the duration of the contract 8 months, and therefore, the total of salaries USD 8,800. Moreover, the Chamber noted that the player claims that on account of salaries the amount of USD 4,800 was not paid to him by the club in question.
5. As far as the club's answer to this claim is concerned, the Chamber noticed first of all that the two submissions of the club dated 8 and 13 December 2005 were contradictory. On 8 December 2005, the respondent declared that the player concerned was released from his contract on 16 June 2004. On 13 December 2005 however, the respondent stated that the player's contract was terminated on 1 February 2004 due to the player's misconduct.
6. Furthermore, the Chamber took note of the agreement dated 16 June 2004 presented by the club and signed by the player, according to which the player acknowledged the receipt of USD 4,000 from the club in settlement of all debts. The Chamber however noticed as well that the player stated that he would not know this document, categorically contested having signed such document, and maintained that his signature on the relevant document was a forgery. Finally, with regard to this document, the Chamber acknowledged that the club never provided FIFA with the original of the relevant document, despite having been expressly requested to do so.
7. On account of the above, the Chamber stated that as a general rule, in application of the legal principle *pacta sunt servanda*, clubs have to pay the players' contractual salaries.
8. In this regard, the Chamber stated that the player's claim for USD 4,800 was based on the salary clause of the employment contract concluded with the club. Moreover, the Chamber stated that that the respondent had not forwarded sufficient evidence that it had duly respected its financial obligations towards the player and paid the amount claimed by the player.
9. In particular, the authenticity of the agreement dated 16 June 2004, by means of which the player allegedly acknowledged the receipt of USD 4,000 from the club in settlement of all debts, was challenged by the player. In this regard, the respondent did neither submit the necessary documents to counter this challenge, nor issue any position in this regard.

10. Hence the Chamber concluded that the amount of USD 4,800 claimed by the player from the club on account of salaries is to be considered as not paid.
11. Question in the matter at stake was therefore if the club had any reason justifying the non-payment of the salaries in question to the player.
12. In this regard, the members of the Chamber acknowledged that the club alleged that the contract with the player was terminated on 1 February 2004, due to the player's misconduct, and that from then on, the player was absent from the club until June 2004.
13. The Chamber however acknowledged as well that the club has not submitted any proof for these allegations, but that it even contradicted to itself with other statements it made, in particular that the contract was terminated in June 2004, and that the player was absent from training sessions and matches in March 2004. If as claimed by the club that the contract was terminated on 1 February 2004, there would have been no need to blame the player for unexcused absence in March 2004.
14. Moreover, the fact that according to the information provided by the Association of club B, the player played with the club concerned on 21 February 2004 as well undermines the club's version of the facts.
15. On account of the above, the Chamber stated that the club had not presented any reason justifying the non-payment of the claimed amounts to the player.
16. Therefore, in application of the legal principle *pacta sunt servanda*, the Chamber decided that the club B has to pay to the player A on account of outstanding salaries the total amount of USD 4,800.

### **III. Decision of the Dispute Resolution Chamber**

1. The claim of the player A is accepted.
2. The club B has to pay the amount of USD 4,800 to the player A **within 30 days following notification** of the present decision.
3. In the event that the debt of the club B is not paid within the stated deadline, an interest rate of 5% per year will apply.
4. In the event that the debt of the club B is not paid within the stated deadline, the present matter shall be submitted to FIFA's Disciplinary Committee, so that the necessary disciplinary sanctions may be imposed.

5. Any further request by the player A is rejected.
6. The player A is directed to inform the club B immediately of the account number to which the remittance is to be made.
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:

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For the  
Dispute Resolution Chamber:

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Dr. Urs Linsi  
General Secretary

Encl. CAS directives