



BASKETBALL
ARBITRAL TRIBUNAL

ARBITRAL AWARD

(BAT 0432/13)

by the

BASKETBALL ARBITRAL TRIBUNAL (BAT)

Mr. Klaus Reichert SC

in the arbitration proceedings between

Mr. Benjamin J. Pensack

- Claimant 1-

Mr. Austin Dufault

- Claimant 2 -

represented by Mr. Benjamin J. Pensack

vs.

Basketbalovy Klub NH Ostrava a.s.
BONVER Aréna, Cingrova 1627/10,
702 00 Moravská Ostrava a Privoz, Czech Republic

- Respondent -

represented by Mr. Ladislav Kudela

AWARD

Upon providing all parties with an opportunity to be heard, having ascertained his jurisdiction and considered the factual and legal arguments as well as the requests for relief submitted in this case, the Arbitrator decides as follows:

- 1. Basketbalovy Klub NH Ostrava a.s. is ordered to pay to Mr. Benjamin J. Pensack interest at 5% per annum on USD 2,250.00 starting on 10 February 2013 and concluding on 31 August 2013.**
- 2. Basketbalovy Klub NH Ostrava a.s. is ordered to pay to Mr. Austin Dufault outstanding salary in the amount of USD 5,420.00 together with interest from 1 September 2013 at 5% per annum until payment.**
- 3. Basketbalovy Klub NH Ostrava a.s. is ordered to pay to Mr. Austin Dufault late payment penalties amounting to USD 300.00.**
- 4. Basketbalovy Klub NH Ostrava a.s. is ordered to pay to Mr. Austin Dufault interest at 5% per annum on USD 8,150.00 starting on 23 May 2013 and concluding on 31 August 2013.**
- 5. Basketbalovy Klub NH Ostrava a.s. is ordered to pay jointly to Mr. Benjamin J. Pensack and Mr. Austin Dufault EUR 1,489.43 and USD 2,500.00 as a contribution towards their legal fees and expenses.**
- 6. The costs of this arbitration until the present Award, which were determined by the President of the BAT to be in the amount of EUR 3,983.38, shall be borne by Basketbalovy Klub NH Ostrava a.s. alone. Accordingly, Basketbalovy Klub NH Ostrava a.s. shall pay jointly to Mr. Benjamin J. Pensack and Mr. Austin Dufault EUR 3,983.38.**
- 7. Any arbitration costs associated with a Request for Reasons (see attached Notice) shall be advanced and borne by the requesting party.**
- 8. Any other or further-reaching requests for relief are dismissed.**



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Geneva, seat of the arbitration, 15 January 2014.

Klaus Reichert
(Arbitrator)

Notice about Request for Reasons

in accordance with Article 16.2 of the BAT Rules:

“By agreeing to submit their dispute to arbitration under these Rules, the Parties agree that, where the value of the dispute does not exceed EUR 30,000, the Arbitrator will issue an award without reasons. The Arbitrator shall deliver reasons only in the case where a party

- a) files a request to that effect at any stage from when the Request for Arbitration is filed until no later than ten (10) days after the notification of the award without reasons; and*
- b) pays the respective advance on costs as determined and within the time limit set by the BAT Secretariat.”*

On 8 August 2013 the BAT Secretariat informed the Parties that the amount of the advance on costs to be paid for a reasoned award in this case is EUR 5,000. The time limit for payment thereof shall be set by the BAT Secretariat upon receipt of the Request for Reasons, if any.