

IBSF APPEALS TRIBUNAL

INTERNATIONAL BOBSLEIGH AND SKELETON FEDERATION

LESLIE STRATTON

V.

INTERNATIONAL BOBSLEIGH AND SKELETON FEDERATION

FINAL AWARD

Leslie Stratton appeals a decision of the Executive Committee of IBSF denying her request for entry into the IBSF World Championships in Women's Skeleton to be held 27-28 February, 2020. Ms. Stratton argues that IBSF applied the IBSF International Skeleton rules in a manner that placed her outside of the World Championship qualifying rank (45th) as a consequence of improperly interpreting the tie-breaker rules. IBSF believes that it has applied Rule 11.2 in accordance with its clear meaning.

Introduction

Because of time limitations presented for resolution of this matter, the Appeals Tribunal issued an Interim Award. In this Final Award, the Tribunal recognizes that the parties have presented broader arguments, and the Tribunal focuses only on those that were deemed material to its decision.

Relevant Facts

Several undisputed facts are relevant to this dispute:

1. Ms. Stratton and Ms. Endija Terauda each earned 435 total points in their eight highest scoring races that make up the IBSF Women's Skeleton Ranking List as of the date entry into the World Championships is determined. Although each participated in more than eight races, IBSF Ranking List rules utilize only as many results as there are World Cup races as of the date of the ranking.

2. Before the application of the IBSF International Skeleton Rules for breaking ties, Ms. Stratton and Ms. Terauda are tied for 45th place in the IBSF Ranking List for World Championship selection purposes.

2. Ms. Stratton earned more World Cup points than Ms. Terauda (who did not enter any World Cup races).

3. Ms. Terauda's single best race in terms of ranking points was 6th place (88 points) at the Junior World Championships.

4. Ms. Stratton's best race was an 8th place finish (80 points) in the World Cup race at Konigsee. (Ms. Stratton earned 80 points at the Lake Placid World Cup as well, but Konigsee WC was more recent and therefore potentially relevant to any tie-breakers).

5. The prior version of the International Skeleton Rules provided the following tie-breaker principles:

In cases of equal points, the following decision criteria apply to the IBSF Ranking List:

- *first, the highest single point score;*
- *next, in the event of a draw, the better scores at the race immediately previous (World Cup points are of higher priority than points obtained in the other race series)*

Analysis

By virtue of having earned more points in World Cup races, Ms. Stratton claims that she should be awarded 45th place. IBSF claims that Ms. Terauda has earned 45th place because her highest individual score (88) is greater than Ms. Stratton's individual score.

The International Skeleton Rules provide for the maintenance of an IBSF Ranking List for each IBSF Series -- World Cup, Intercontinental Cup, North American Cup, Europe Cup and Youth Series -- that is contested within the Federation. In addition the IBSF maintains the overall "IBSF Ranking List," which serves several functions -- utilizing results from those series and championships. The specific races that are incorporated into the IBSF Ranking List depend on the time the list is compiled and the use of the list at that time.

Rule 11.2 IBSF Ranking List

During the current season, the best results of each pilot are totaled by name for the IBSF Ranking List, regardless of the race series or World Championships in which the results were scored. It is consulted as an adjusted ranking list to determine the various quotas.

. . . .

In cases of equal total points, the following criteria apply to define the position in the IBSF Ranking List:

1. *In general: The number of races scored is equal to the number of World Cup races carried out up to that specific date during the current season. For points 2 to 4 the following applies: World Cup points are of higher priority than points obtained in the other race series.*
2. *the highest single point score amongst the races taken into consideration (see point 1).*
3. *Hereinafter, the higher score of the preceding race, which has been counted for the Ranking.*
4. *Hereinafter, the higher score of the race which has been counted for the Ranking and had taken place before the race under point 3.*

Ms. Stratton's Interpretation

Ms. Stratton argues that the phrase “World Cup points are of higher propriety than points obtained in the other race series” means that World Cup points are the first tie-breaker, and that she should be ranked before Ms. Terauda because she has more World Cup points than Ms. Terauda. In support of her argument, she observes that Point 2 specifically references Point 1 in its application, and she concludes that the only sensible reading of that incorporation is to give World Cup points express priority over all other points.

That interpretation is problematic because it does not seem to be consistent with the remaining plain language of the rule. The phrase “World Cup points are of higher priority than points obtained in the other race series” does not stand alone as a tie-breaker itself; instead, it clearly applies only to Points 2 through 4. That is, Points 2 through 4 set out the tie-breaker rules, and any ties *within Points 2 through 4* are resolved first by reference to World Cup points, then to points earned in other series. The suggestion that Point 1 is itself a “tie-breaker” is certainly understandable because of the manner in which the list is presented, but the explanatory language does not readily lend itself to application as a tie-breaker itself. Specifically, the language used says that World Cup points are given priority “for points 2 through 4.” If IBSF wanted World Cup points to be given absolute priority, the restriction of the phrase “for points 2 through 4” would have been unnecessary. Simply put, if the International Skeleton Rules intended that the first tie-breaker would be World Cup points, there are simpler ways to state that point than the labored construction Ms. Stratton urges.

The first tiebreaker is “the highest single point score amongst the *races taken into consideration*.” The phrase “*races taken into consideration*” appears to refer to the races from which points are accumulated for calculation of placement on the IBSF Ranking List. Ms. Terauda has the highest “single point score” of 88 points. Although the rule refers to propriety of World Cup points over “points obtained in the other race series,” the phrase “*races taken into consideration*” encompasses races (specifically, World Championships and Junior World Championships) that are outside “series” of races. If the phrase “*races taken into consideration*” encompasses all races from which points are taken to constitute the IBSF Ranking List, then Ms. Terauda’s “highest single point score” is therefore higher than Ms. Stratton’s “highest single point score.”

IBSF's Interpretation

IBSF's arguments essentially track the reasoning above as demonstrating that the rule unambiguously requires that the highest point score from *any race* (including Junior World Championships) and not merely the World Cup races be used as the first means of breaking the tie. In addition, IBSF points to an amendment in Rule 11.2 of the 2019 International Skeleton Rules as showing that the intention was only to use World Cup races in the event of a tie between the athlete's respective highest scores from any race.

While that reading is plausible for the reasons set out above, it has its own troubles. The new language of Rule 11.2 refers to World Cup races as having preeminence for resolving ties, and the phrase "amongst the races taken into consideration" could refer to the limited number of races (that is, the number of races equal to the number of World Cup races to that point). That is, if racers have eleven results but there only have been eight World Cup races to that point, "amongst the races taken into consideration" could mean the eight highest results for each athlete. However, that interpretation really leaves the phrase "amongst the races taken into consideration" as entirely superfluous.

In addition, the rule as interpreted by IBSF does not explain how to break a tie between two equal point totals where one of the highest scores comes from a World Championship and the other comes from a World Cup race. That is, the new language only resolves ties where both highest scores are from "race series" and not where, as here, once score does not come from a "race series." Although that specific problem does not appear here, the possibility of that conflict casts doubt on whether the rule was intended to accomplish (or adequately accomplishes) the goal of providing an unambiguous tie-breaking rule. The interpretation suggested by Ms. Stratton, for all its own difficulties, at least provides a means of resolving those potential conflicts.

Conclusion and Order

For the reasons set forth above, the Appeals Tribunal finds that Rule 11.2 is ambiguous. Although the parties resort to rules of construction to support their respective positions, the IBSF International Skeleton Rules themselves direct that ambiguities be resolved in the following manner:

15.3 Interpretation

If an article in these Rules should be ambiguously defined so that multiple interpretations are possible, the interpretation should be used that matches the underlying meaning for which the article was written.

Unfortunately, the phrase "the interpretation should be used that matches the underlying meaning for which the article was written" lends no help in this case as it equally support either reading.

Pursuant to Article 15.2, the Executive Committee has the power to modify the International Skeleton Rules and, in a case such as this, the responsibility to resolve ambiguities to ensure that the application of the rules is clear. Because the current rule is ambiguous and Rule 15.3 does not

dictate which interpretation should be applied, the Appeals Tribunal grants Ms. Stratton's appeal and orders that she be entered into the World Championships.

The Appeals Tribunal recognizes that the ramifications of her entry may have consequences for subsequent rankings that were not contemplated within the rules, and leaves it to the Executive Committee to consider those consequences in modifying the rules moving forward so as not to prejudice any athlete who demonstrably relied on Rule 11.2.

DATED this 5th day of March, 2020.

Stephen A. Hess

Stephen A. Hess, Chair
Ermanno Gardella
Ben Heijmeijer
Sander Kevelaerts
Stephen Rowland-Jones