

Decision of the Dispute Resolution Chamber

passed on 18 July 2024

regarding an employment-related dispute concerning
the player **Jair Vinicius Alves Brito**

BY:

Frans DE WEGER (The Netherlands), Chairperson

Tomislav KASALO (Croatia), member

Tarek BRAUER (Germany), member

CLAIMANT:

Jair Vinicius Alves Brito, Brazil

Represented by Pedro Macieirinha

RESPONDENT:

Al Bahrain Sports Club, Bahrain

I. Facts of the case

1. On 1 August 2022, the Brazilian player, Jair Vinicius Alves De Brito (hereinafter: *the Claimant* or *Player*), and the Bahraini club, Al Bahrain Sports Club (hereinafter: *the Respondent* or *Club*) signed an employment contract (hereinafter: *the Contract*) valid as from 1 August 2022 until 1 August 2024.
2. In accordance with the Contract, the Respondent undertook to pay to the Claimant *inter alia* a salary of USD 4,000 per month.
3. The Contract further stipulated, *inter alia*, that the Club will provide medical treatment for the Player during the Contract period.
4. In April 2023, the Claimant suffered an injury and travelled to Brazil for treatment.
5. On 15 February 2024, the Claimant sent a default notice (hereinafter: the *default notice*) to the Respondent, asserting that the Respondent had not paid nine months' salaries from May 2023 until January 2024, in the total amount of USD 36,000. The Claimant provided the Respondent a time limit of 15 days, *i.e.*, the time limit expiring on 1 March 2024, in order to remedy the default, or it will be entitled to terminate the Contract with just cause and lodge a claim before the FIFA Football Tribunal.
6. In the default notice, the Claimant further informed the Respondent that he "*will be available to play in the time limit of one month, according to the indication of the medical staff that observes him, and will travel to perform under the direction of the club.*"
7. On 1 March 2024, the Claimant sent a second default notice to the Respondent reiterating his prior demands.
8. On 1 March 2024, the Respondent replied in an email to the Player, stating as follows: "*Issued by Bahrain Sports Club. We send you the information available to us in response to your letter sent to us dated today, March 1, 2024. We inform you that the player, Jer Brito. He previously had a professional player contract, and he submitted a request to terminate the contract signed with him. He also signed a release and settlement of the rights and obligations to receive financial dues. Accordingly, the relationship between the two parties has ended based on a request and signature from the player, Jair Brito. We would like to inform you that the Bahrain Sports Club has no objection to entering, signing and contracting in a professional relationship with new conditions if the player passes the examinations and tests necessary to enter into a new contract for the next season.*"
9. On 3 March 2024, the Claimant sent a notice to the Respondent, denying the assertions of the Respondent's 1 March 2024 email, and terminating the Contract.

II. Proceedings before FIFA

10. On 20 March 2024, the Claimant filed the claim at hand before FIFA. A brief summary of the position of the parties is detailed in continuation.

a. Position of the Claimant

11. According to the Claimant, the Respondent had, to date, failed to pay the Claimant outstanding remuneration in the amount of USD 40,000, representing 10 months' missed salaries from May 2023 until February 2024.

12. The Claimant argues that he terminated the Contract with just cause due to the outstanding remuneration and is therefore entitled to such remuneration as well as compensation for the residual value of the Contract.

13. The requests for relief of the Claimant, were the following:

As outstanding remuneration:

- *Monthly salary from May 2023 in the amount of 4.000 USD*
- *Monthly salary from June 2023 in the amount of 4.000 USD*
- *Monthly salary from July 2023 in the amount of 4.000 USD*
- *Monthly salary from August 2023 in the amount of 4.000 USD*
- *Monthly salary from September 2023 in the amount of 4.000 USD*
- *Monthly salary from October 2023 in the amount of 4.000 USD*
- *Monthly salary from November 2023 in the amount of 4.000 USD*
- *Monthly salary from December 2023 in the amount of 4.000 USD*
- *Monthly salary from January 2024 in the amount of 4.000 USD*
- *Monthly salary from February 2024 in the amount of 4.000 USD*

SUB-TOTAL = 40.000 USD, plus interest at 5% rate since the overdue dates until the effective payment.

As compensation for the termination of the contract with just cause:

- *the remaining value of the contract signed between the parties, until the end of the season of 2023 - 2024, in the amount of 16.000 USD, plus interest at 5% rate since the overdue dates until effective payment."*

TOTAL DUE = 56.000 USD plus interest at 5% rate since the overdue dates until effective payment.

b. Position of the Respondent

14. Despite being invited to do so, the Respondent failed to provide a response.

III. Considerations of the Dispute Resolution Chamber

a. Competence and applicable legal framework

15. First of all, the Dispute Resolution Chamber (hereinafter also referred to as *Chamber* or *DRC*) analysed whether it was competent to deal with the case at hand. In this respect, it took note that the present matter was presented to FIFA on 20 March 2024 and submitted for decision on 18 July 2024. Taking into account the wording of art. 34 of the February 2024 edition of the Procedural Rules Governing the Football Tribunal (hereinafter: *the Procedural Rules*), the aforementioned edition of the Procedural Rules is applicable to the matter at hand.
16. Subsequently, the members of the Chamber referred to art. 2 par. 1 of the Procedural Rules and observed that in accordance with art. 23 par. 1 in combination with art. 22 lit. b) of the Regulations on the Status and Transfer of Players (June 2024 edition), 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 Brazilian player and a Bahraini club.
17. Subsequently, 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 (June 2024 edition), and considering that the present claim was lodged on 20 March 2024 the February 2024 edition of said regulations (hereinafter: *the Regulations*) is applicable to the matter at hand as to the substance.

b. Burden of proof

18. The Chamber recalled the basic principle of burden of proof, as stipulated in art. 13 par. 5 of the Procedural Rules, according to which a party claiming a right on the basis of an alleged fact shall carry the respective burden of proof. Likewise, the Chamber stressed the wording of art. 13 par. 4 of the Procedural Rules, pursuant to which it may consider evidence not filed by the parties, including without limitation the evidence generated by or within the Transfer Matching System (TMS).

c. Merits of the dispute

19. Its competence and the applicable regulations having been established, the Chamber entered into the merits of the dispute. In this respect, the Chamber started by acknowledging all the above-mentioned facts as well as the arguments and the documentation on file. However, the Chamber emphasised that in the following considerations it will refer only to the facts, arguments and documentary evidence, which it considered pertinent for the assessment of the matter at hand.

i. Main legal discussion and considerations

20. The foregoing having been established, the Chamber moved to the substance of the matter, and took note of the fact that the Claimant alleged that he terminated the Contract with just cause due to outstanding remuneration.

21. The Chamber further took note that since the Claimant failed to reply to the claim, the Chamber needed to base its decision on the evidence presented before it.

22. In this context, the Chamber acknowledged that its task was to determine whether the Claimant established that the Contract remained in force from May 2023 until the date on which the Claimant terminated the Contract and that the Respondent breached said Contract by not paying the alleged outstanding remuneration.

23. The Chamber examined the Claimant submission, in which he stated that he departed the Club in April 2023 following an agreement with the Respondent permitting him to take leave in order to seek medical treatment in Brazil.

24. The Chamber further noted the Claimant's assertion that upon his return in February 2024, the Claimant informed the Respondent in February 2024 that he would be ready to return to play within one month.

25. In this context, the Chamber noted that the Claimant presented no evidence of an agreement between the parties for the Player to depart from the Club to receive medical treatment, nor any evidence confirming the status between the parties relating to the rights and obligations pertaining to the Contract during this period.

26. The Chamber further observed an absence of records relating to the Claimant's medical treatment or medical reports in support of his claim, or otherwise attesting to the injury, all of which he cited as the reason for invoking his absence from the Club for a period of at least nine months.

27. In continuation, the Chamber took note that the Claimant provided no correspondence between the parties for a period of said nine months relating to a return to the club, or any updates relating to the injury or justifying the extended absence. The only evidence the Claimant presents of a communication coming from the Club appears to be the 1 March

2024 email, claiming that the parties in fact ended their relationship at the request of the Player and proposing that the parties enter into a new contract for the season.

28. Taking all of the above into account and referring to art. 13 par. 5 of the Procedural Rules, according to which a party claiming a right on the basis of an alleged fact shall carry the respective burden of proof, the majority of the members of the Chamber concluded that the Claimant did not meet its burden of proof in support of its claim and arguments. Accordingly, the Chamber found that the claim must be entirely rejected.

d. Costs

29. The Chamber referred to art. 25 par. 1 of the Procedural Rules, according to which *"Procedures are free of charge where at least one of the parties is a player, coach, football agent, or match agent"*. Accordingly, the Chamber decided that no procedural costs were to be imposed on the parties.
30. Likewise, and for the sake of completeness, the Chamber recalled the contents of art. 25 par. 8 of the Procedural Rules, and decided that no procedural compensation shall be awarded in these proceedings.
31. Lastly, the DRC concluded its deliberations by rejecting any other requests for relief made by any of the parties.

IV. Decision of the Dispute Resolution Chamber

1. The claim of the Claimant, Jair Vinicius Alves Brito, is rejected.
2. This decision is rendered without costs.

For the Football Tribunal:



Emilio García Silvero

Chief Legal & Compliance Officer

NOTE RELATED TO THE APPEAL PROCEDURE:

According to article 57 par. 1 of the FIFA Statutes, this decision may be appealed against before the Court of Arbitration for Sport (CAS) within 21 days of receipt of the notification of this decision.

NOTE RELATED TO THE PUBLICATION:

FIFA may publish this decision. For reasons of confidentiality, FIFA may decide, at the request of a party within five days of the notification of the motivated decision, to publish an anonymised or a redacted version (cf. article 17 of the Procedural Rules Governing the Football Tribunal).

CONTACT INFORMATION

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