

Decision of the Independent Judicial Officer

ERC

Held at Huguenot House, St. Stephen's Green, Dublin by telephone conference
14th October 2009

In respect of Andy Beattie of Bath Rugby

("the Player")

And

**Ordering-Off for stamping on an opponent in contravention of Law 10.4.b.
in the match between Ulster – v - Bath Rugby on 9th October 2009**

Judicial Officer appointed to hear the case:

Roger Morris – Wales ("the Judicial Officer")

Decision of the Judicial Officer:

- (i) As the Player had accepted that the Referee was correct to order him off, the Judicial Officer had to determine what suspension or other sanction should be imposed upon the Player, if any;
- (ii) The Judicial Officer considered that there was no reason not to impose a suspension on the Player and as such the Player was suspended from taking part in the game of rugby up to and including the 1st of November 2009. This represents a 3 week suspension commencing on the 9th of October 2009.
- (iii) The Judicial Officer made an award of costs against the Player of one-half of the Judicial Officer's travel costs of attending the hearing.

Introduction

The Judicial Officer was appointed by Professor Lorne D Crerar, Chairman of the ERC's independent Disciplinary Panel pursuant to the Disciplinary Rules found in the Participation Agreement of the Heineken Cup 2009/2010. The Judicial Officer was appointed to consider the Ordering Off of the Player in the match played between Ulster and Bath Rugby on the 9th of October 2009 in the Heineken Cup 2009/2010. James L Jones was appointed as Referee to this match and had ordered the Player off for stamping on the head of an Ulster player in contravention of Law 10.4.b.

The hearing was conducted by telephone conference. In addition to the Judicial Officer, present at the ERC Offices was Mr Roger O'Conner, Disciplinary Officer, ERC.

Present at the offices of Bath Rugby were:

- The Player
- Mr Thomas Sheppard - Solicitor representing the Player
- Dave Guyan – Team Manager Bath Rugby

Preliminary matters & procedure

At the commencement of the hearing the Judicial Officer noted the identities of all involved in the telephone conference and the offence for which the Player was Ordered Off being stamping on an opponent contrary to Law 10.4.b.

The Judicial Officer reminded all parties that the ERC Disciplinary Rules found in the Participation Agreement for the Heineken Cup 2009/2010 (the “Disciplinary Rules” and “DR” in the singular) would apply. The Judicial Officer outlined the procedure to be followed to determine the matter. The Player and all present at the telephone conference agreed to proceed on that basis.

The Judicial Officer established what evidence had been placed before him prior to the hearing and enquired as to whether all present had received the same in good time. The Judicial Officer then enquired as to whether any additional evidence was to be presented before him. This evidence was as follows:-

- Video clips
- The Referee’s Report
- Email from Ulster Rugby dated 12th October 2009
- Four letters of reference attesting to the character of the Player

The Judicial Officer noted the terms of the responses to the Standing Directions found at Appendix Six of the Disciplinary Rules (“the Directions”) as follows:-

- The Player’s response to the Directions was:
 - The Player confirmed he was the player who was shown the red card
 - There were no preliminary matters to be argued
 - He disagreed with the Referee’s statement that he had “stamped on the head area of the Ulster player”.
 - He accepted the act of foul play merited being shown a red card.
 - He contested the Referee’s Official Report to the extent that he had actually stamped at the top of the number 7 shown on the Ulster player’s back and not the head
 - The reasons for contesting the Referee’s version was that the Referee’s line of sight was obstructed and enquiry following the incident showed no injury had been suffered.
 - Those attending the telephone conference would be The Player, Mr Thomas Sheppard and David Guyan

The Judicial Officer invited the Player and Disciplinary Officer to confirm whether or not they had any preliminary issues that they wished to raise. There were none.

In accordance with DR 6.2.2 the Judicial Officer reviewed the Ordering Off including the referee's reasons for the Ordering Off. In accordance with DR 6.2.8 the Judicial Officer referred to the Official Report of the Referee and asked the Player whether he accepted the Official Report as a true and accurate account of the incident and the facts surrounding the incident and separately whether the Player accepted that he should have been Ordered Off. The Player stated that he accepted that he ought to have been Ordered Off.

The Player also stated that although he accepted that he ought to have been Ordered Off, he wished to challenge some aspects of the Referee's Official Report because he had not stamped on the head area of the Ulster No 7 but on the upper part of his back near the Ulster No 7's shoulder.

Evidence supporting Ordering Off

Pursuant to DR 6.2.9 the Judicial Officer directed that the video footage of the incident should be shown. The Judicial Officer established that The Player and those with him in Bath also had the same video footage and so both sides of the telephone conference viewed the video footage simultaneously.

The video showed:-

- A ruck being formed on the Bath 10 metre line some 20 metres in from Bath's right hand touch line.
- The Ulster No 7 ended up in a position on the floor on the Bath side of the ruck with his head and torso exposed.
- The Player approached the ruck at walking pace, briefly seemed to be drawing the Referee's attention to the position of the Ulster No 7 on the ground but then shuffling his feet so that he could plant his left foot on the grass near the Ulster No 7 followed through with his right foot in a stamping motion making contact with the top of the Ulster No 7's back.
- The Referee was positioned a couple of metres or so to the Bath left of the ruck and immediately blew his whistle. He called the Player to him and showed the red card so ordering the Player off the field.

The parties then considered all other evidence relating to the Ordering Off in the form of the Official Report from the Referee and the email from Ulster.

The relevant section of the Referee's Report said:

“An arriving Ulster player [at the ruck] went to “jackal” for the ball and was pulled to ground by a Bath player ending up at the side of the tackle. As this happened an arriving Bath player (who I identified as Mr Beattie) stamped on the head area of the Ulster player who was on the ground”.

At the end of his report the Referee said that after the game Beattie apologised for the incident.

The email from Ulster stated:

“I can also confirm there was no contact with Willie’s head or neck – only the shoulder area and it resulted in no injury to our number 7”.

Player’s position

The Player narrated his position in relation to the offending as follows:-

- He saw the Ulster No 7 on the wrong side of the ruck and pointed this out to the Referee.
- Frustrated that the Ulster player was preventing his side from winning the ball he walked towards the Player and stamped him on the upper back.
- He was adamant that he did not either target or connect to the Player’s head.
- He pointed to the position of the Referee in relation to the incident and in relation to the other Players around the periphery of the incident. From where the Referee was standing he may have thought contact had been made with the head but his line of sight was partially obscured and, as the video had shown, contact was actually made with the back.
- The Player referred to the email exchange with Ulster which had confirmed that the Ulster player had not been stamped to the head but to the back. It also confirmed that the Ulster player had suffered no injury.

At this point the Disciplinary Officer said that in the light of the Ulster confirmatory email and what he had seen on the video he would accept the Player’s contention that the stamp had not been to the head but to the upper part of the back. The hearing therefore proceeded on that basis.

Submissions on sanction

Once all of the evidence had been heard on what had happened, the Judicial Officer invited the Player and the Disciplinary Officer to make submissions as to sanction.

Submissions on behalf of the Player were:-

- The stamp he had perpetrated was not to the head but to the back of the Ulster Player.
- It was not delivered with such force as was likely to have caused injury and indeed no injury was so caused. It was not his intention to cause injury but to remind the opposing player that he was on the wrong side of the ruck.

- The Player was a player of exemplary previous record.
- The Player was a player of exceptional good character and in support of that assertion four references were provided. The references were from his employer, Bath Rugby; Jack Rowell OBE; Chartwell Financial Management and Warrant Officer Bob Toomey of the Headley Court Rehabilitation Centre for injured soldiers.

The Disciplinary Officer's submissions were:-

- That he was content to rely on the video footage to speak for itself
- He accepted that contact was with the upper back or shoulder area and not the head
- He accepted from the Ulster email there was no injury caused by the Player's actions

Decision as to disposal

The Judicial Officer retired to deliberate in private in respect of what, if any, sanction would be appropriate in the circumstances. The Judicial Officer was satisfied that the following had occurred in the incident:-

- The Ulster No 7 was lying on the ground on the Bath Rugby side of a ruck with his head towards the Bath try line.
- The Player approached the ruck from behind at walking pace. He changed his walking pattern by a shuffle of his feet. He did this, in the Judicial Officer's view, to allow him to perpetrate with his right leg the stamp that he then executed to the upper back of the Ulster No 7.
- In the Judicial Officer's view the action by the Player was deliberate, premeditated and gratuitous.
- Although it was not a stamp to the head it was nevertheless a stamp of sufficient force as might have caused injury.
- Although to the upper back, the stamp was to an area perilously close to the Player's vulnerable and exposed neck.

In turning to the question of sanction, the Judicial Officer considered the terms of the Disciplinary Rules including DR 6.7.29 through to DR 6.7.44. The Judicial Officer considered that this was an offence for which a suspension ought to be imposed.

The Judicial Officer noted that the offence of stamping in contravention of Law 10.4.b. was listed within the IRB Recommended Sanctions for Offences Within the Playing Enclosure (found at Appendix Three of the Disciplinary Rules) as follows:-

- Lower End – 2
- Mid Range – 5
- Top End – 9+
- Maximum Sanction – 52 weeks

To decide upon the appropriate entry point the Judicial Officer assessed the seriousness of the Player's conduct by reference to the following:-

- The stamp was gratuitous and deliberate. Further, in the Judicial Officer's view it was premeditated in that the Player made a decision to deal himself with what he considered to be an offending opposition player. Having made that decision he perpetrated the offence.
- The stamp was delivered with sufficient force and (although not to the head) to a sufficiently vulnerable part of the body as to make the danger of injury real.

In light of the same the Judicial Officer determined that the appropriate entry point for this matter was 5 weeks being the mid range.

The Judicial Officer then considered the "off-field" issues and in doing so looked at whether there were any "aggravating" or "mitigating" factors.

The Judicial Officer considered that the following were off-field aggravating factors to take into account in determining the appropriate period of suspension:-

- The deliberate and premeditated nature of the execution of the offence

A period of 1 week was to be added to the entry point because of this.

The Judicial Officer considered that the following were off-field mitigating factors to take into account in determining the appropriate period of suspension:-

- The Player's previously exemplary record
- The fact that he apologised to the Referee immediately after the game and then in the changing rooms to the Ulster player.
- The Player was apologetic to the hearing and clearly contrite.
- The testimonials produced were impressive and particularly because some of them came from outside the game, spoke highly of the Player's character and confirmed him as a good ambassador for the game.

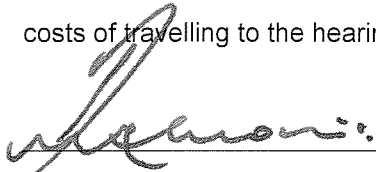
A period of 3 weeks was to be deducted because the Judicial Officer accepted the Player's apologies as genuine, accepted the incident was an isolated aberration, and considered a record, on and off the field, as good as the Player's deserved to be acknowledged.

In all of the circumstances the Judicial Officer determined that an appropriate sanction was the imposition of a period of suspension of 3 weeks commencing on 9th of October 2009 and ending on 1st November 2009 (inclusive).

The Player and the Disciplinary Officer are reminded that DR 7.1.1 provides for a right of appeal against this decision.

Costs

The Judicial Officer awarded costs against the Player to the extent of one-half of the Judicial Officer's costs of travelling to the hearing.



Roger Morris
Judicial Officer

22nd October 2009

Date