

## **HEINEKEN CUP 2008/2009**

### **Decision of Disciplinary Committee**

**Held at the IRB Boardroom, Huguenot House, 35/38 St Stephens Green, Dublin**

**Thursday 22 January 2009**

#### **IN RESPECT OF:**

Thomas James (“the Player”) and a red card shown to the Player by the referee for Contravention of Law 10.4(a) of the Laws of the Game. In respect that he had struck an opponent on the opponent’s head with his head.

#### **MEMBERS OF THE DISCIPLINARY COMMITTEE (“THE COMMITTEE”)**

Rod McKenzie (SRU) (“the Chairman”)

Mr George Spotswood (IRFU)

Jean-Etienne Bernard (FFR)

#### **DECISION OF THE COMMITTEE**

1. That the Player be suspended for a period of two weeks from 18 January 2009 until Sunday 1 February 2009 (inclusive).
2. That the Player be required to pay the costs of European Rugby Cup Limited (“ERC”) in the amount of 1,456.41 Euros.

#### **INTRODUCTION**

The Committee was convened by Professor Lorne Crerar, Chairman of the ERC Discipline Panel, pursuant to the Discipline Regulations of the Heineken Cup 2008/2009 (“DR”) in respect of the sending off of the Player by the match referee during the course of a round 5 pool 6 match in the Heineken Cup 2008/2009 between Gloucester and Cardiff Blues at Gloucester on 18 January 2009 (“the Match”).

The referee's report on the sending off advised that the Player had stood eyeball to eyeball with the Gloucester number 2 and had drawn back his head and struck the Gloucester number 2 on his head with the Player's head.

**PRESENT AT THE HEARING IN ADDITION TO THE MEMBERS OF THE COMMITTEE WERE:-**

The Player

Robert Norster (Gloucester RFU – representing the Player)

Roger O'Connor (Disciplinary Officer, ERC)

**THE HEARING**

At the commencement of the Hearing the Chairman confirmed the identifies of all present and established that the Player before the Committee was the player referred to in the referee's report. The Chairman outlined the procedures to be adopted by the Committee for the Hearing and confirmed that the provisions of the Disciplinary Regulations for the Heineken Cup 2008/2009 would apply.

The Player established that all present had available to them the video evidence made available by the ERC Disciplinary Officer together with the relevant written material.

The Player did not seek to contest the sending off.

**SANCTION**

In this case the Player correctly decided not to contest the decision of the referee to send him off. This is not a case in which no sanction would be appropriate and therefore the issue is the level of sanction which should be imposed.

The starting point is DR6.7.32. In Appendix 3 to the Disciplinary Rules which is the IRB Table of Recommended Sanctions striking a player with the head contrary to law 10.4(a) has a low end of 4 weeks suspension, middle range of 8 weeks and a top end range commencing at 12 weeks.

The referee had blown for a penalty to Gloucester just short of the Gloucester try line. The Player had been involved in a ruck and was getting to his feet as the Gloucester number 2, without any apparent reason, pushed the Player in his back causing the Player to stumble forward. The referee did not see the push in the back of the Player although the referee was only a matter of two metres or so away. The referee was not looking towards the Player and the Gloucester number 2 at this point.

The Player then turned to face the Gloucester number 2 and words were exchanged between the players. The referee was still some two metres away and his attention was drawn to the exchange. The Gloucester number 2 raised his arms and pushed the Player in the Player's chest. The Player stepped towards the Gloucester number 2 inclined his head downwards and his forehead forwards. This caused the Player's head to strike the head of Gloucester number 2.

The Gloucester number 2 immediately fell to the ground holding his head.

It did not appear to the Committee that the extent of the response of the Gloucester number 2 to the blow was proportionate to the relatively modest force of the blow which had been struck by the head of the Player.

The offending in this case was intentional. There was a degree of provocation by the Gloucester number 2 having twice pushed the Player. The Gloucester number 2 suffered no injuries and the effect on him would have been no more than transitory pain from the modest blow he had received. There were no effects on the game other than the effect of the Player being sent from the field of play and his side thereby being disadvantaged.

Both of the Players were being aggressive towards each other. The Player however took the level of aggression to an unacceptable level and committed a clear act of foul play. There was complete participation in the incident by the Player but no pre-meditation. The conduct was completed.

The Committee were satisfied that this was a low end offence taking account of the provocation, the modest strength of the blow, the absence of any injury and there being effect on the game.

The low end entry point is 4 weeks.

The Player showed remorse for his actions and contrition for what he had done. The Player is a first offender under the Laws of the Game, is a relatively young and by the standards of the Heineken Cup an inexperienced player. The Player complied with the standard directions, albeit late, and behaved impeccably at the Hearing.

In all the circumstances the Committee decided to mitigate the period of suspension of 4 weeks by 50% bringing the period of suspension down to 2 weeks. The Player has been suspended since the date of his sending off and accordingly the period of suspension is from Sunday 18 January 2009 until Sunday 1 February 2009 (inclusive).

The Player was advised of his right to appeal at the Hearing.

## **COSTS**

The Committee determined to award the costs of the arranging and convening of the Hearing and the legal costs of the ERC Disciplinary Manager against the Player. There were three cases dealt with on the same day and accordingly the Player shall pay one third of the Hearing costs and the costs of the members of the Committee. The ERC's legal costs are 429.44 Euros. The total costs payable by the Player to the ERC are 1,456.41 Euros.

SIGNED.....

Rod McKenzie  
Chairman

DATE: