

EUROPEAN RUGBY CUP
DECISION OF THE DISCIPLINE COMMITTEE
IN RESPECT OF A HEARING HELD AT THE
ERC HEADQUARTERS, ST. STEPHEN'S GREEN, DUBLIN
ON THURSDAY 23RD OF APRIL 2009
IN RESPECT OF ALESANA TUILAGI
CLUB – LEICESTER TIGERS

Citing Complaint for Infringement of Law 10.4(f) “Dangerous charging or obstructing or grabbing an opponent without the ball, including shouldering”

Members of Discipline Committee:

H Pat Barriscale, Chairman (IRFU)

Dr. Barry O’Driscoll (IRFU)

Jean Noel Couraud (FFR)

Decision of the Committee

1. The Committee found that the Player had committed an act of illegal and/or foul play contrary to 10.4(f) which merited a red card;
2. The Player is suspended from taking part in a game of rugby up to and including 12 midnight on the 21st day of May 2009. This represents a four week suspension commencing on the 23rd April 2009;
3. The Committee make an award of costs against the Player in respect of the hearing on the 23rd of April 2009;

Introduction

The Committee was convened by Professor Lorne D Crerar, the Chairman of the ERC Discipline Panel, pursuant to the Discipline Regulations of the ERC in respect of a citing complaint made by Mr Douglas Hunter (SRU). The citing complaint concerned the conduct of the Player during an ERC Match between Leicester Tigers and Bath Rugby on the 11th April 2009 at the Walker’s Stadium. The citing complaint alleged

that the Player was guilty of an offence under Law 10.4(f) playing an opponent without the ball.

Present at the hearing on the 23rd April 2009 in addition to the members of the Committee were:-

Roger O'Connor, Disciplinary Officer, ERC

Simon Cohen, Director of Rugby, Leicester Tigers

Peter Wheeler, Chairman, Leicester Tigers

Alesana Tuilagi, the Player

Paul Burke, Assistant Coach, Leicester Tigers

Hearing

At the commencement of the hearing, the Chairman confirmed the identities of all present and established that the Player was before the Committee to answer a citing complaint. The Chairman outlined the procedure to be adopted by the Committee for the hearing and that the provisions of the ERC Disciplinary Regulations would apply. The Player and all present agreed to proceeding on that basis.

The Chairman established what evidence had been placed before the Committee prior to the hearing and enquired as to whether all present had received the same in good time. No issues arose in this regard and as there were no preliminary issues to be determined, the hearing proceeded.

The Chairman asked the Player how he wished to plead in relation to the citing complaint and the allegation that he had committed an act of illegal and/or foul play. The Player admitted that he had committed an act of illegal and/or foul play. This had been communicated to the Committee a number of days in advance of the hearing.

The hearing proceeded thereafter with detailed video evidence available in respect of the incident. This was presented by Mr O'Connor of the ERC together with the documentary evidence which was before the Committee and particularly the medical report in respect of the injuries sustained by the injured player. Detailed discussion

ensued between all parties arising out of the video evidence particularly. The Committee were then addressed by Mr O'Connor in relation to the aggravating factors which should be considered by the Committee pursuant to Rules 6.7.34. This included the Player's previous disciplinary record which included a 45 day suspension arising out of an incident on 2nd May 2004, a 12 week suspension arising out of an incident on the 25th April 2004 and a six week suspension arising out of an international rugby match between Samoa and England in 2005 in respect of a dangerous tackle. The Committee were assisted in relation to the 2005 incident particularly as Dr. Barry O'Driscoll had sat on that Committee also.

Submissions were made thereafter by Mr Cohen on behalf of the Player and by the Player himself in respect of the mitigation of the sentence pursuant to Rule 6.7.35. Evidence was given in relation to the Player's good character by Mr Peter Wheeler.

The Committee then retired to deliberate in private in respect of the appropriate sanction to be imposed on the Player. On their return, the Committee determined that having taken into account all of the matters which had been raised before them, the Committee fixed on an entry point of 5 weeks, namely the mid-range in respect of sanctions. This had regard to the injury to the player and his vulnerability at the time of impact. The incident also occurred at a critical time in the match; 8 minutes remaining and score tied at 15-15. They determined that there were aggravating factors which had to be taken into account namely:-

- a) The Player's status as an offender against the laws of the game;
- b) The need for a deterrent to combat a pattern of offending of this type of offence.

They considered that in addition one week should be included under this heading bringing the sanction to six weeks.

There were certain mitigating factors taken into account also by the Committee and these included:-

- a) The fact that the Player had pleaded guilty at the earliest available opportunity;
- b) The Player's good character; and

- c) The Player had been subjected to an internal club disciplinary procedure and had been suspended for one week arising therefrom.

Taking all these factors into account a reduction of two weeks should be included in respect of these mitigating factors.

In all of the circumstances, the Committee determined that the appropriate sanction was the imposition of a period of suspension of four weeks commencing 23rd April and ending at midnight on the 21st May 2009 inclusive. The Committee also awarded the costs of the hearing against the Player.

Appeal

The parties are reminded of the right of appeal in the circumstances within 72 hours of the receipt of this written decision.

Signed: _____
H. Pat Barriscale

Dated: 24/04/2009