## **DISCIPLINARY HEARING**

**VENUE: Holiday Inn, Bloomsbury, London** 

**DATE: 14 April 2008** 

Player: Des BRETT Club: Blackheath RFC

**Match:** Westcombe Park v Blackheath

Venue: Westcombe Park Date of match: 29 March 2008

Panel: Jeff Blackett (Chairman), Jeremy Summers and Peter Budge ("the Panel")

Secretary: Liam McTiernan

In attendance: The Player

Albert Patrick – Blackheath Rugby General Manager

Yousuf Ibrahim – Blackheath 1st XV Manager

To consider: The sending off of Des BRETT ("the Player") for striking an opponent with

his knee in the 10<sup>th</sup> minute of the 2<sup>nd</sup> half of the match contrary to Law 10.4(a)

# **PRELIMINARY ISSUES**

1) The Player did not object to the composition of the Panel.

## **CHARGE AND PLEA**

- 1. The Player admitted the charge, and did not seek to dispute the sending off report.
- However, for the reasons set out below, whilst commending both the Player and Blackheath for their actions, the Panel considered that the plea had been entered on the basis of an incorrect understanding of the Disciplinary Regulations.

## **EVIDENCE AS TO FACT**

- 3. The Panel considered:
  - a) The Sending Off Report (intervention by Touch Judge)
  - b) The match recordings taken by both clubs
  - c) Oral evidence from the Player
  - d) Submissions on behalf of the Player by Mr Evans

## THE EVIDENCE

4. The Sending Off Report recorded as follows:

Westcombe park had set up a driving maul 6 meters from my touch line just out side there own 22 metre area, I observed the Westcombe park No:5 slip and fall to the ground at the side of the maul, this had no affect on the maul. The Blackheath No: 3 (Mr Des Brett) was about to join the maul when this happened he altered his approach to the maul so as he was directly over the player on the floor, he then dropped his right knee in to the side of the head of the player on the floor. I immediately signalled foul play, and called the referee to stop the game. Once I had given my report to the referee as to what I had seen he told me he would dismiss the Blackheath player and re-start with a penalty to Westcombe Park, I agreed that this would be correct.

- 5. The match recordings were viewed. The recording provided by Westcombe Park did not show the incident in question and was thus not of assistance to the Panel. The Blackheath recording was consistent with the Sending Off Report and showed Blackheath progressing an attacking maul having won possession of the preceding line out near the opposition 22. The Player could be seen initially to join the left hand side of the maul and then break off to come around lawfully and rejoin it on the right. By that time, as the Sending Off Report records, the Westcombe Park No. 5 had slipped and was on the ground. The match was played in driving rain and undoubtedly conditions were slippery in the extreme. As the Player drove forward, into the maul the recording showed some brief contact between the Player's right knee and the No.5's head. It did not appear that this contact reflected that the Player "dropped" his knee as had been indicated in the Sending Off Report.
- The No.5 did not call for any medical attention, and there was no reaction from any other player. The referee appeared to be in close proximity but did not see the incident. The dismissal followed a report from the touch judge on the near side to play.

## THE PLAYER'S CASE

- 7. The Player confirmed that his knee had made contact with the No.5's head. He however explained that he had been trying to step over the player who had fallen to the ground as indicated. He had been attempting to drive the maul forward the and whilst he was doing so No.5 had got in his way with the result that contact had been made with his head. In response to questioning from the Panel, the Player indicated that whilst he did not dispute that contact had been made, the contact had been accidental. He said that the contact had been minimal.
- 8. The No.5 had previously played for Blackheath and the Player considered him to be a friend. They had spoken shortly after the game and there was no ill feeling.
- 9. Mr Patrick informed the Panel that the Player, who is a front row forward, had played professional rugby for 15 years without troubling a disciplinary panel. In his 5 years at Blackheath he had only received 2 yellow cards, both for technical offences. The Player had not contested internal disciplinary proceeding and had received a 2 week suspension that had already been served. In his view the incident was an accident and there had been no malice. On reflection he did not even think the incident was reckless and that the Player could have properly put forward a defence.

#### FINDING

- 10. The Panel carefully considered the evidence and was mindful of the weight to be given a match official's report. The match official did not however, as did the Panel, have the benefit of viewing the match recording and assessing in light of the Player's evidence. In all the circumstances the Panel found that the contact had been accidental and that accordingly no act of found play had occurred. In reaching that conclusion the Panel had regard to the playing conditions, the nature and force of the contact, the lack of injury, the lack of player reaction and the candidness and demeanor of the Player when giving evidence. The Panel accordingly finds the Player not guilty of the charge and directs that the red card be removed from his record.
- 11. In so doing the Panel is of the view that the Player had not appreciated that accidental contact does not constitute foul play, and thus pleaded guilty on an incorrect understanding of the disciplinary process. The Panel is nevertheless grateful to Blackheath for the way in which the club dealt with the matter.

**Jeremy Summers**On Behalf of the Panel
15 April 2008