

RUGBY FOOTBALL UNION

DISCIPLINARY HEARING

At: Holiday Inn, Brighouse, Leeds

On: 22 February 2010

JUDGMENT

Player: Michael Ellery

Club: Westoe RUFC

Date of Match: 13 February 2010

Venue: Westoe

Panel: Mike Hamlin, (Chairman), Dr Barry O'Driscoll and Peter Rhodes

In attendance: No attendance by the player and/or the club

To consider: An allegation that the player, contrary to Law 10(4)(A), struck an opposing player in the match Westoe -v- Broadstreet during the 39th minute of the first half.

The player/club did not attend, and accordingly there were no objections to the composition of the panel, nor any preliminary points raised.

EVIDENCE AS TO FACT

The panel has considered the following:-

1. The report of the referee.
2. Relevant e-mails between the RFU Disciplinary Department and the Club.
3. The minutes of the club's disciplinary panel meeting on 16.2.10.
4. DVD of the incident.

The referee's report stated: "During the 39th minute of the first half a ruck had formed around the Broadstreet 22 and approximately 10 metres in field. Westoe had appeared to win the ball when a Broadstreet player dived over the top of the ruck to try and disrupt the ball coming out. I called penalty advantage. The Broadstreet player then tried to move away and, as he was standing up, the Westoe No.8 ran from at least 5 metres away and with a swinging left arm and clenched fist struck the Broadstreet player in the upper body area. I blew my whistle immediately to stop the game. A general pushing and shoving contest then began which lasted for at least a minute. I called my assistant referee over to ask him if he had seen any foul play and he informed me of the above. He informed me that he had seen the same. I called the Westoe captain and the No.8 over and sent the No.8 from the field of play. I observed no injuries to any player and no person drew my attention to any person who may have suffered an injury as a result of this incident".

The panel then viewed the DVD of the incident which accords with the referee's description save that the Westoe number 8 could be seen on the left hand side of the ruck/maul and he can clearly be seen running 2-3 metres (not 5 metres) from the incident and with a swinging right arm and clenched fist struck the Broad Street player. The player and the victim player were then seen to extricate themselves from the maul and fall to the ground grappling. This precipitated a general brawl with both players from both sides getting involved, pushing and shoving one another but there were no apparent incidents of serious foul play. The incident did not last for a minute but it was certainly unseemly and inappropriate.

The minutes of the club's disciplinary panel had considered the referee's report, studied the DVD of the match and gathered reports from spectators on the incident. After receiving a further report from the Director of Rugby on interviewing the player, the following points were made.

The player had not run 5 metres to strike the opposition player but had moved from the back of the ruck to clear the said player from the Westoe side of the ruck. There was no intention of striking, the intention was to clear the player from the ruck, which seemed to be supported by the spectators interviewed. The committee considered the case and felt that being dismissed from the pitch was sufficient sanction and whilst there was bodily contact it was not intentional striking. The player wishes to plead guilty by post.

Having viewed the DVD and the referee's report, the panel determined that:

1. The player did run 2-3 metres.
2. The player did strike the opposition player with his right fist.
3. The panel did not accept that the player's actions were to clear the opposition player from the Westoe side of the ruck, the opponent was not at the time of the strike on the Westoe side of the ruck.
4. As a result of the player's actions there was an unseemly sight of players pushing, shoving and grappling with one another.

The panel could not agree that there was no intention of striking as the player's right fist was clenched. It was noted that the player apologised to the referee afterwards and indicated that it was a badly executed attempt at clearing the player out of the area. On the evidence before the panel, on the balance of probabilities it was intentional.

The panel therefore finds the player guilty on his own admission. The panel then undertook an assessment under paragraph 8.2.5 to 8.2.8 of the regulations in relation to the entry point.

1. The act was intentional, the panel did not find it was reckless.
2. The punch was delivered with some force.
3. There was a suitable impact upon the game in that there was a scene of disorder which erupted in pushing, pulling and grappling which took some 30 seconds or so to settle down. The victim player who was struck was not injured.
4. The victim player was vulnerable to the extent that although on his feet he may not have expected to have been punched in the manner he was.
5. The act to a certain extent was pre meditated in that the player did move 2-3 metres to strike the opponent player, but it was a spontaneous act of intent to what the player perceived as an offence by the victim player.
6. The punch was completed.

Taking into account all the above factors and circumstances, the panel determined that the entry point was mid entry which is 5 weeks. No aggravating factors were present.

The panel then undertook an assessment of the mitigating factors and took into account the following:

1. The player's good record and conduct;
2. There was no evidence of youth and inexperience;
3. The player had acknowledged guilt and responsibility.
4. There were no other relevant mitigating factors before the panel.

Accordingly the player was entitled to the maximum discount and therefore received a discount of 2 weeks.

SANCTION

The player is therefore suspended for a period of 3 weeks from the 22.2.2010 until 15.3.2010. The player is free play again on 16.3.2010.

COSTS

The panel makes an Order for costs in the sum of £150 against the player/club.

RIGHT OF APPEAL

The player is reminded of his right of appeal and the procedure on appeal as set out in RFU Disciplinary Regulation 12.1.1.

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Signed: ***Mike Hamlin***
 Chairman

Dated: **25 February 2010**