

WRITTEN REASONS OF THE FAST TRACK TRIBUNAL



IN THE MATTER OF A WRONGFUL DISMISSAL CLAIM BROUGHT BY:

Cowdenbeath FC (“the Claimant”)

on behalf of

David Cox (“the Player”)

1. These are the written reasons for the Determination made by a Fast Track Tribunal (“the Tribunal”), which convened on 22 January 2020, to determine this Claim.
2. In the 65th minute of the Scottish Professional Football League, League Two, fixture between Cove Rangers FC and the Claimant, Cowdenbeath FC, on 18 January 2020, the Player was dismissed from the field of play by the Referee for the offence A2 Violent Conduct, as defined by the Laws of the Game. The dismissal resulted from the Player’s kicking of an advertising board and stated motioning with his head towards spectators.
3. The Claimant submitted a claim of Wrongful Dismissal on behalf of the Player. In support of the Claim, the Claimant submitted video footage showing the incident in question, as well as a written Submission of David Allan, Secretary of the Claimant, which included a short Statement of the Player and excerpts from Social Media.
4. In summary, the Claimant’s submission was that the Player was not violent in his conduct towards another person.
5. The Referee provided a Statement confirming the act, which he decided was Violent Conduct. The Referee confirmed that he dismissed the Player for Violent Conduct because he was informed by the Assistant Referee that the player had left the field of play at the halfway line and violently kicked an advertising board, using excessive force, and motioned with his head towards spectators standing at the advertisement board.
6. In order for a Claim of Wrongful Dismissal to be upheld the Tribunal must be satisfied, on a balance of probabilities, that the Referee made an Obvious Refereeing Error in dismissing the Player.
7. An Obvious Refereeing Error, as stated in Annex F to the Judicial Panel Protocol 2019/20, is defined as being an error at a match by a Referee, or a Match Official, which is clear or self-evident, or easily perceived.
8. In IFAB Laws of the Game Violent Conduct is defined as follows:-

“Violent conduct is when a Player uses or attempts to use excessive force or brutality against an opponent when not challenging for the ball, or against a team-mate, team official, match official, spectator or any other person, regardless of whether contact is made.”
9. The Tribunal considered all of the available evidence. They viewed the video footage of the incident, supplied by the Claimant, and carefully considered the Claimant’s written Submission and the Referee’s Statement. The Player accepted that he had kicked the advertising board, and stated that he had responded to verbal abuse from nearby spectators. The excerpts from Social

Media, submitted by the Claimant, stated that there had been no excessive force or brutality used by the Player towards spectators and that there had been no adverse reaction from spectators in response to the Player's actions. The video footage was not clear in respect of any motioning by the Player towards spectators. It could be seen from the video footage that the Player kicked the advertising board and that there was no adverse reaction by the spectators in response to the Player's actions.

10. Having considered all of the available evidence, the Tribunal found, on a balance of probabilities, that the Player did not use excessive force or brutality against another person, including any spectator. The Player accepted that he had kicked the advertising board. However the available evidence did not support a finding that excessive force or brutality had been used against a spectator or spectators. There had been no adverse reaction to the Player's actions, which was inconsistent with excessive force or brutality having been used. The Tribunal found that the striking of the advertising board and the lack of adverse reaction from spectators was clear.
11. The Tribunal further found, on a balance of probabilities, that the Player's admitted striking of the advertising board demonstrated Unsporting Behaviour. They found that the Player's actions in this regard demonstrated a lack of respect for his fellow players, the match officials, the spectators and those who support the game of football, in particular third parties who invest in the game through advertising. The Tribunal found that the Player's Unsporting Behaviour was clear.
12. Accordingly, and on a balance of probabilities, the Tribunal found that the Referee had made an obvious refereeing error in concluding that the Player's actions in kicking an advertising board and in any motioning towards spectators, which the Tribunal could not determine in terms of the available evidence, constituted Violent Conduct. The Tribunal found that the Referee's conclusion and decision to dismiss the Player for Violent Conduct was a clear error. They found that the offence committed by the Player was that of Unsporting Behaviour.
13. Therefore the Determination of the Tribunal was that the Claim be upheld, that the sending off offence, and mandatory sanction, be rescinded, that the cautionable offence of Unsporting Behaviour B1(j) had been committed by the Player and that the appropriate sanction for that offence be imposed.
14. The Determination of the Tribunal is final and binding on all Parties and is not subject to appeal.