

WRITTEN REASONS OF THE FAST TRACK TRIBUNAL



IN THE MATTER OF A (WRONGFUL DISMISSAL) CLAIM BROUGHT BY: JORGE GRANT

Heart of Midlothian FC

on behalf of

Jorge Grant.

1. These are the written reasons for a Determination made by a Fast Track Tribunal which convened on Tuesday 8th November 2022 to deliberate this Claim.
2. In the 38th minute of the Scottish Premiership fixture between Heart of Midlothian FC and Motherwell FC on Sunday 6th November 2022, the player was dismissed from the field of play by the Referee for Serious Foul Play.
3. The Claimants submitted a Claim of Wrongful Dismissal on behalf of the player. In support of this Claim, the club submitted video footage showing the incident in question and written submissions from their manager, Mr Robbie Nielson.
4. In order for a Claim of Wrongful Dismissal to be upheld, the Fast Track Tribunal must be satisfied, by way of evidence submitted and upon the balance of probabilities, that the Referee made an Obvious Refereeing Error in dismissing the player.
5. In summary, the submission on behalf of the Claimant was that having regard to Player IFAB law 12, Rules of the Game, that there are three distinct areas identified as being demonstrative of serious foul play, and that none of these had been established. Further and having regard to mitigating evidence, that it was submitted that an Obvious Refereeing Error had taken place. The Claimant identified three types of conduct which might constitute serious foul play, namely:
 - 1 – A tackle that endangers the safety of an opponent.
 - 2 – A tackle that uses excessive force or brutality.
 - 3 – Any player that lunges at an opponent in challenging for the ball from the front, side or behind using one or both legs with excessive force or endangering the safety of an opponent.
6. On behalf of the Claimant it was submitted that the tackle did not endanger the safety of an opponent, given that as shown on the video, that he made contact with the opponent on the foot, at ground level with the studs of his leading foot facing downward to further reduce the possibility of endangering the opponent. Whilst the opponent was seen to hold his upper shin area, and the Referee made reference to the tackle being 'above ankle and boot', that this was not borne out by the video evidence which showed that the contact was made at ground level, on the foot rather than above the ankle and boot. It was submitted that the tackle was a genuine attempt to play the ball which did not at any point endanger the safety of the opponent.
7. It was also submitted on behalf of the Claimant that the tackle did not demonstrate excessive force or brutality, given that as was shown in an attached GPS report, that he was travelling at 6.1 metres per second which is recognised as 62% of Mr Grant's maximum speed. Reference was also made to the fact that the acceleration evidence submitted also indicated that the incident

was one of Mr Grant's lowest acceleration outputs during the game suggesting that the Referee's assessment that the challenge was a high speed, high intensity challenge was inaccurate.

8. In relation to the criteria regarding a player lunging at an opponent whilst challenging for the ball from the front, side or behind using one or both legs with excessive force or endangering the safety of an opponent, it was suggested that the Referee's assessment that the tackle was 'lacking in control', was erroneous given that the player's feet were on the ground at point of impact with the left knee bent and in full contact with the ground to further control the action. It was submitted that this was a controlled tackle that was a genuine attempt to play the ball and not a lunging action as stated by the Referee.
9. Having regard to all of the foregoing factors it was submitted that the Claimant did not commit serious foul play, but rather he committed a reckless challenge and his punishment should be reduced accordingly.
10. The Referee provided a statement explaining the act which he decided constituted the offence of "Serious Foul Play" and required him to dismiss the player. The Referee stated that in his view that the player's challenge on his opponent endangered the safety of his opponent, given that it was made at speed, with intensity, and was as lacking in control, in the sense that the player lunged towards his opponent/the ball and made contact with his opponent's leg above the boot/ankle – all criteria justifying a red card sanction.
11. The Fast Track Tribunal viewed the video footage of the incident and carefully considered the written submissions from the Claimants. It also considered the definition from Laws of the Game in relation to sending off offences.
12. Having considered all the evidence, the Fast Track Tribunal decided that the Claimants had unsuccessfully demonstrated that an Obvious Refereeing Error had occurred. The test for such matters is whether it can be demonstrated on a balance of probabilities that the Referee has made an obvious refereeing error. The onus of proof in this regard rests at all times on the Claimant.

In the present instance the Referee determined that the player had acted in a manner which endangered the safety of his opponent. The tackle was made at speed and with intensity and contact was made with the opponent. Whilst the evidence submitted on behalf of the Claimant suggests that he may not have been acting at his highest speed and/or intensity, the speed and force actually utilised by the player must be viewed in the context of the tackle as made. Put simply the fact that the player could have acted at a greater speed or with greater intensity than he actually did is not a defence where the actual speed and intensity present did endanger an opponent. The speed and intensity utilised were both demonstrably significant. Further the submission that the player was in control at all times did not appear to be borne out in the footage. Having viewed this video footage and the submissions, the Fast Track Tribunal were unanimously of the opinion that the Referee was entitled to reach the view that he did and it had not been demonstrated that an obvious refereeing error had been made
13. The Determination of the Fast Track Tribunal was that the Claim be dismissed and the sending off offence and original sanction should be reimposed. The Fast Track Tribunal noted that in terms of Rule 13.18 of the Scottish Football Association Judicial Panel Protocol 2022/2023 that a Claim shall only be upheld at a Fast Track Principal Hearing where the Tribunal is satisfied by way of evidence and not opinion and upon the balance of probabilities that an Obvious Refereeing Error was made and that the burden of proof lies upon the Claimant. The Claimant had not demonstrated that such an error had been made on a balance of probabilities
14. The Determination of the Fast Track Tribunal is final and binding on all Parties and is not subject to Appeal.