

WRITTEN REASONS OF THE FAST TRACK TRIBUNAL



IN THE MATTER OF A WRONGFUL DISMISSAL CLAIM BROUGHT BY

Partick Thistle FC

on behalf of

Ross Docherty

1. These are the written reasons for a Determination made by a Fast Track Tribunal which convened on Wednesday 30th November 2022 to deliberate this Claim.
2. In the 38th minute of the Scottish Cup Third Round fixture between Partick Thistle FC and Kelty Hearts FC on Saturday 26th November 2022, the player was dismissed from the field of play by the Referee for Violent Conduct.
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 detailed written submissions.
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 Claimant's submissions acknowledged that the player was red carded in the 38th minute of the Scottish Cup tie between Partick Thistle FC and Kelty Hearts FC on Saturday 26th November 2022 for Violent Conduct. It was submitted on behalf of the player that this was a wrong decision and came as a result of an Obvious Refereeing Error. Reference was made to pitch side footage of the incident. It was submitted that in terms of Law 12 of the Laws of the Game, that Violent Conduct is defined as being "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." On behalf of Ross Docherty, it was stated that his actions were all in the course of his "challenging" the Kelty Hearts FC player Joe Cardle. Furthermore, it was stated that the player's actions did not demonstrate "excessive force or brutality", but were representative of a challenge between two players during the course of a match.
6. Reference was made to the lodged footage which was said to show the player challenging his opponent to win the ball, with his right foot on the top of the ball, and that it showed that his right foot made contact with the ball, with no contact between him and the lower leg of his opponent. It was suggested that in the course of this action that his momentum caused him to turn 180 degrees, which spinning motion resulted in him adjusting to regain his balance. At that point it was submitted that the player made quick steps on the ground to try and regain his balance, however none of these steps contacted his opponent. He was said to have been focused on the ball which caused his foot to rest briefly on his opponent's leg. The player was said to have raised his left foot, and there was no stamping motion by him. It was suggested that the Referee accepted that the only contact between the player and his opponent was "accidental" whilst he was attempting to regain his balance. Given that this action was accepted by the Referee as being

“accidental” any reference by the Referee to his actions being Violent Conduct constituted an Obvious Error on his part.

7. The Referee provided a statement explaining the decision he had made. He stated that in the 38th minute of the match, that he had halted the match given that a Kelty Hearts FC player was pulled unfairly by a Partick Thistle player. He accordingly awarded a direct free kick. He stated that at this time, when the ball was already out of play, that the player entered into a challenge with the Kelty Hearts FC No7 and in so doing, he stood on the lower leg of his opponent with his studs making contact with his opponent. The Referee stated that this unnecessary action had the potential to endanger the safety of an opponent and, as the ball was not in play, constituted an act of Violent Conduct (rather than Serious Foul Play). The Referee also stated the fact the ball was out of play added the element of brutality into consideration. The Referee further stated that as a result of the painful contact, that an opposing player kicked out and punched another opponent (causing him to have a wound on his face). As a result of the retaliation by the Kelty Hearts FC player, the No23 of Partick Thistle FC was forced off balance and then accidentally stood again on the Kelty Hearts FC player. In the Referee’s opinion, the act of the No23 of Partick Thistle FC in standing directly on the leg of his opponent with force, and with his studs making contact when tackling after play was stopped, constituted an act of Violent Conduct. He stated that he had a clear and unobstructed view of the incident, and therefore showed the player a red card, sending him from the field of play. He added that he also showed a red card to the Kelty Hearts FC No7. The match was restarted with the direct free kick originally awarded to Kelty Hearts FC for the illegal holding offence
8. 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.
9. Having considered all the evidence, the Fast Track Tribunal decided that the Claimants had unsuccessfully demonstrated that an Obvious Refereeing Error had occurred. The Fast Track Tribunal examined the available video evidence in detail, and noted the terms of the submissions by the player, and also the terms of the Referee’s Report. The Fast Track Tribunal observed that from the video footage that it was apparent that the Referee was well-placed to deal with the incident being located within a short distance of the incident as it occurred. It was also observed from the footage and from the Referee’s statement that his view of the incident was unobstructed at the material time. The Panel noted that in terms of Rule 13.18 of the Scottish Football Association Judicial Panel Protocol 2022/23 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.
10. In the present appeal, it was noted that the submissions on behalf of the player made reference to the fact that the player’s actions were all in the course of his “challenging” the Kelty Hearts FC player Joe Cardle, and that furthermore, that the player’s actions did not demonstrate “excessive force or brutality”, but rather were representative of a challenge between two players during the course of a match. It appeared to the Fast Track Tribunal that the position of the player in this regard may have been misguided. The Referee has made clear that play had been stopped prior to the player entering into the challenge. The ball was not in play and accordingly there could be no challenge made by the player. The Kelty Hearts FC player had been pulled unfairly and a free kick had been awarded. As the Referee has pointed out, it was after play had stopped and the ball was out of play that the player entered into what he referred to as the challenge with the Kelty Hearts FC player. It cannot however be maintained that the player’s actions were in the course of his challenging his opponent, given that the context of the incident was that the player

made contact with his opponent when play had stopped, and when it was clearly no longer legitimate for him to do so.

11. Thereafter the player acted in the manner stated by the Referee as seen on the footage. Whilst play had stopped he acted in such a manner that led to him standing on the leg of his opponent. Given that play had stopped it was clear that any challenge on the opponent was unnecessary and was not legitimate. Against that background the player entered into an unjustified challenge with his opponent whereby he stood on his leg. The player did not appear to make any effort to avoid doing so, and as pointed out previously this challenge should never have taken place. In relation to reference to accidental contact, again the submissions on behalf of the player may perhaps be misguided in that they related to the second contact with the Kelty Hearts player, by which time the Referee had already decided to take action in respect of the initial contact.
12. The Referee clearly had a very good view of the incident, and he was at the time of the incident in very close proximity thereto. He had an unobstructed view and has been able to provide a clear account of the reasons why he considered that the player had been guilty of Violent Conduct. The Referee clearly explained his reasoning for coming to this conclusion, namely that:
 - The player entered into a challenge with the opponent when the ball was not in play and he was not entitled to enter into that challenge;
 - That the player stood on the leg of his opponent with his studs on the back of his leg, thereby endangering the safety of his opponent.

The Referee was clearly entitled to come to this conclusion on the basis of what he observed and there was nothing in the video footage which was in any way inconsistent with the Referee's interpretation of the player's actions. The Fast Track Tribunal accordingly concluded that the Claimant had not established on a balance of probabilities that the Referee had made an Obvious Referring Error. Accordingly the Fast Track Tribunal were satisfied that the Claim should be dismissed.

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.
14. The Determination of the Fast Track Tribunal is final and binding on all Parties and is not subject to Appeal.