

WRITTEN REASONS OF THE FAST TRACK TRIBUNAL



IN THE MATTER OF A WRONGFUL DISMISSAL CLAIM BROUGHT BY:

Dundee FC (the Claimant)

on behalf of

Kenneth Miller (the Player)

1. These are the written reasons for a Determination made by a Fast Track Tribunal which convened on 19 September 2018 to deliberate this Claim.
2. In the 77th minute of the SPFL Premiership fixture between Rangers FC and Dundee FC on 15 September 2018 the Player was dismissed from the field of play by the Referee for A1 Serious foul play.
3. The Claimant submitted a Claim of Wrongful Dismissal on behalf of the Player. In support of this Claim, the Claimant submitted video footage and still images showing the incident in question and 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 submission was that the Player did not lunge at an opponent, nor did he endanger the safety of his opponent. Furthermore, the Claimant contended that the Player used neither 'excessive force' nor 'brutality' in the incident which resulted in the Wrongful Dismissal.
6. The Referee provided a statement explaining the act which he decided was a sliding challenge against an opponent in an attempt to gain possession of the ball ("Challenge"). The Challenge was such that the safety of the opponent was endangered – specifically it was a sliding challenge, from a distance, at speed with studs showing and raised slightly off the ground, with excessive force. Furthermore, the Player was not in full control of his actions at the time of the Challenge, resulting in the Player's studs making contact with his opponent's ankle.
7. The Fast Track Tribunal viewed the video footage of the incident and carefully considered the written submissions from the Claimant. It also considered the definition from Laws of the Game in relation to Serious Foul Play which states: A tackle or challenge that endangers the safety of an opponent or uses excessive force or brutality must be sanctioned as serious foul play.

Any player who lunges at an opponent in challenging for the ball from the front, from the side or from behind using one or both legs, with excessive force or endangers the safety of an opponent is guilty of serious foul play.

Having considered all the evidence, the Fast Track Tribunal decided that the Claimant had unsuccessfully demonstrated that an Obvious Refereeing Error had occurred. In reaching its decision the Fast Track Tribunal took into consideration the nature of the Challenge, a sliding tackle from a distance, at speed, which endangered the safety of the Player's opponent. In deciding to make such a challenge for possession of the ball, the Player held a disregard for the safety of his opponent and from the footage/evidence viewed it was clear that he was not in control of his actions. The contact made with the studs to the ankle of the Player's opponent was such that it could have resulted in serious injury.

The Fast Track Tribunal was in agreement that the contention of the Claimant as to the lack of 'brutality' was not relevant to the present claim of Wrongful Dismissal. Brutality was not cited as a reason for the Dismissal in the Referee's statement. The grounds for dismissal were established by the use of excessive force by the Player.

In reaching its decision to uphold the original sanction and in concluding that the Challenge constituted serious foul play, the Fast Track Tribunal also took into account the proximity of the Referee to the incident and his unobstructed view at the time of the Challenge.

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