

**BEFORE THE SPORTS TRIBUNAL  
OF NEW ZEALAND**

**ST 05/17**

**BETWEEN**                   **DRUG FREE SPORT NEW ZEALAND**

**Applicant**

**AND**                       **GARETH DAWSON**

**Respondent**

**AND**                       **BASKETBALL NEW ZEALAND**

**Interested Party**

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**PROVISIONAL SUSPENSION ORDER AND  
MINUTE OF TELECONFERENCE  
4 SEPTEMBER 2017**

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**Present:**           Paul David QC, Counsel for Drug Free Sport NZ  
                         Nick Paterson and Jude Ellis, Drug Free Sport NZ

Iain Potter, Basketball New Zealand

**Chairperson:**       Sir Bruce Robertson

**Registrar:**          Neela Clinton

1. Gareth Dawson is a member of the Canterbury Rams NBL basketball team. Basketball New Zealand has adopted the 2017 Sports Anti-Doping Rules (SADR) promulgated by Drug Free Sport New Zealand (DFSNZ) as its anti-doping policy.
2. DFSNZ alleges that analysis of a sample collected from Mr Dawson during a NBL match on 27 May 2017, confirmed the presence of the prohibited substance Higenamine.
3. On 4 August 2017, DFSNZ filed an Application for the Provisional Suspension of Mr Dawson alleging a breach of SADR 2.1.
4. Mr Dawson currently resides in Western Australia. On 25 August 2017, the Tribunal advised Mr Dawson that it would convene a hearing the following week to consider the Provisional Suspension Application. Mr Dawson was provided with a Legal Assistance Panel List and a copy of the relevant pages on anti-doping cases from the Sports Tribunal Information Guide. In addition, Mr Dawson was urged to contact the Tribunal for assistance and advice.
5. Despite numerous attempts by email and telephone to contact Mr Dawson to facilitate support, provide information and to engage Mr Dawson with this matter, he failed to respond.
6. On 31 August 2017, given the extended length of time of non-communication and unable to delay the matter any further, the Tribunal advised of a teleconference with all parties at 5pm NZ time on Monday 4 September 2017 to consider the Provisional Suspension Application. All parties confirmed their availability except for Mr Dawson.
7. On 1 September 2017, Mr Dawson emailed that he was unable to attend due to work commitments. Further, he said he would be away from home working until 9 September with little phone reception. The Tribunal offered to reschedule the teleconference to enable Mr Dawson's attendance and seek his instructions regarding the Provisional Suspension Application. Mr Dawson did not respond, and the Tribunal has heard nothing further from him.

8. On 4 September 2017, in the absence of further communication, we proceeded with the scheduled teleconference convened by the Tribunal Chair to consider the Provisional Suspension Application, in Mr Dawson's absence. The Tribunal is unaware of and has not been notified by Mr Dawson of any representative acting on his behalf.
9. Being satisfied that there was no substantive reason why provisional suspension should not be imposed, and that Mr Dawson knew of this scheduled teleconference, the Tribunal Chair ordered the provisional suspension of Mr Dawson with immediate effect from 4 September 2017. Mr Dawson may not take part in any way in any event or activity, organised, sanctioned or authorised by Basketball New Zealand or by any other sporting organisation which is a signatory to the SADR.
10. The following timetabling orders were made in relation to the substantive anti-doping rule violation proceedings:
  - (a) DFSNZ is to file and serve its Form 1 (Application for Anti-Doping Rule Violation Proceedings) and written material in support by Monday 18 September 2017;
  - (b) Mr Dawson is to file and serve his Form 2 (Notice of Defence in Anti-Doping Violation Proceeding/ or Notice of Wish to Participate on Sanctions) together with any evidence and other written material in support within 14 days of being served the Form 1;
  - (c) a pre-hearing telephone conference is set down for 11.00am on Tuesday 24 October 2017.
11. Leave is reserved for the parties to request a further telephone conference regarding pre-hearing matters if required.
12. The Tribunal noted Mr Dawson's previous history and his failure to engage. The allegation if proven requires that substantial mandatory penalties are imposed. The onus is on Mr Dawson, if there is to be any amelioration. He must discharge the strict liability burden. In the absence of positive steps

by him, the Tribunal will have no options and this will result in serious consequences for Mr Dawson.

Dated: 5 September 2017



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**Sir Bruce Robertson**  
**Chairperson**