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Tribunal upholds appeal of rugby league club against the suspension of its committee by its regional body

The Sports Tribunal heard an appeal by the Central Rugby League Club (CRLC), the committee of which had been suspended in December 2018 by its parent body, Bay of Plenty District Rugby League (BOPDRL, and the Respondent). BOPDRL said that it had a number of concerns with the CRLC's committee, among them principally that CRLC had amended its constitution without the prior approval of BOPDRL, which was required by rule 22 of BOPDRL's Constitution. After this matter had been raised, the committee agreed to rescind the changes that had been made to its constitution and immediately took steps to do that. However, less than a fortnight later, without further warning or a further meeting, BOPDRL served a notice of suspension on the committee. The letter of suspension referred only to the breach of rule 22 by CRLC as the basis for the suspension.

An appeal against the suspension was immediately filed with the Appeal Committee of New Zealand Rugby League (NZRL), which on 28 February 2019 dismissed the appeal.

With the consent of both the suspended committee and BOPDRL, an Administrator was appointed to the CRLC. With the cooperation of the suspended committee members, he achieved a rescission of the changes that had been made to the Constitution but was unable to reach a resolution of the suspension issue and the appeal came back before the Tribunal for determination.

In the meantime, BOPDRL gave notice (on its Facebook page) of an AGM for CRLC to be held in June 2019. That AGM was held, at which a new committee was elected. The original, suspended, committee amended its notice of appeal to include a challenge to the validity of that AGM and the election of the new committee on the grounds that the original suspension was unlawful and that accordingly they remained the lawful committee of CRLC. BOPDRL resisted the appeal on both grounds. In addition, the new committee, represented by counsel, appeared at, and took an active part in, the hearing, though not formally named as a party.

At the hearing of the appeal, CRLC argued that the original suspension was in breach of natural justice, and that BOPDRL had acted outside its powers (*ultra vires*) in suspending the individual committee members (as had the NZRL Appeal Committee).

The Tribunal agreed with both submissions. It has held that the suspension was in breach of natural justice. It also held that the suspension of individual committee members was *ultra vires* and that there was no power in its Constitution or otherwise to take that action. In the light of the

above findings, the Tribunal determined that BOPDRL did not have the power to hold an AGM in June 2019 and the election of a new committee had no lawful effect.

Notwithstanding this decision, the Tribunal has expressed its concern that, in the interests of the club and of the sport of rugby league, it was desirable that other issues which were causing friction between members and prospective members of the club – principally the processes by which membership applications were being determined – should be addressed for the future.

The Tribunal has therefore expressed the view that the restored committee should give a reasonable period for new membership applications to be made, and should have the receipt and processing of these applications overseen by a legally-qualified person with experience of the constitutions of such clubs.

Following this, an AGM (which is currently overdue because of the dispute that has been the subject of this Decision), should be called at which the election or re-election of a committee would take place.

The Tribunal has reserved the right to supervise the implementation of the Decision but expressed the wish that it will not be necessary for it to intervene going forward.

The decision in this case is available from the website of the Sports Tribunal (www.sporttribunal.org.nz). See *Central Rugby League Club v Bay of Plenty District Rugby League* (ST 02/19). Copies can also be obtained directly from The Registrar, Sports Tribunal of New Zealand (telephone: 0800 55 66 80; e-mail: info@sporttribunal.org.nz).