

**BEFORE THE SPORTS TRIBUNAL  
OF NEW ZEALAND**

**ST 09/08**

**BETWEEN**

**NOEL CURR**

**Appellant**

**AND**

**MOTORCYCLING NEW ZEALAND LIMITED**

**Respondent**

---

**DECISION ON COSTS APPLICATION**  
**26 February 2009**

---

1. The appellant appealed against a decision of the respondent's board against a period of suspension. The respondent took a jurisdictional point on which it succeeded and the appeal was struck out.
2. The respondent now seeks costs and suggests a sum of \$1,760. Its actual costs were \$3,500 plus GST. The respondent relied upon the normal rules applicable in High Court proceedings. This Tribunal does not operate under those rules.
3. The original Rules of the Tribunal provided that in respect of costs:

"The Tribunal shall usually make an order that requires each party to bear their own costs or an order imposing on a party the payment of costs limited to a symbolic amount. In exceptional circumstances, the Tribunal may make orders for payment of more substantial amounts, taking into account the outcome of the Proceeding; whether the Proceeding was without merit; the way in which the parties conducted themselves in the Proceeding; and such other factors as the Tribunal considers just".
4. The current Rules of the Tribunal are not so restrictive. Nevertheless, the Tribunal has not as a matter of practice departed from the intent of the original rule.
5. This was a case where the appellant was suspended and had a right of appeal. Because the Tribunal's jurisdiction is contractual, it does not have jurisdiction to hear matters which do not fall within the provisions of the rules of a national sports organisation. The respondent's rules required the appellant to file the appeal within a specified time and did not give this Tribunal any jurisdiction to extend that time.
6. The appellant filed his appeal one day late and it had to be struck out. The respondent was entitled to take the jurisdictional point. By filing the application out of time, the appellant lost his right of appeal. In the circumstances, the Tribunal, in accordance with its policy, does not see that this is an appropriate case to award costs.

7. The application is dismissed.

Dated 26 February 2009

A handwritten signature in black ink, appearing to read 'Barry Paterson', is positioned above the printed name.

---

**Hon Barry Paterson QC**  
**Chairman of the Tribunal**