

**BEFORE THE SPORTS DISPUTES TRIBUNAL
OF NEW ZEALAND**

STD 06/06

BETWEEN

S HUNTER

Appellant

AND

KARTSPORT NEW ZEALAND INC.

Respondent

**DECISION OF TRIBUNAL
Dated 11 April 2006**

Appearances:

R Neave for the Appellant
SJ Penlington for the Respondent

Tribunal Members participating:

Hon B J Paterson QC (Chairman)
T Castle
C Quirk

Registrar:

B Ellis

Solicitors:

Ian Robertson & Co, Solicitors, PO Box 2567,
Christchurch (for Appellant)
Jones Fee, Solicitors, PO Box 1801, Auckland
(for Respondent)

INTRODUCTION

1. In December 2005, the Respondent ("**Kartsport**") imposed upon the Appellant, Mr Hunter, a fine of \$500, cancelled his competitor's licence for a period of six months and endorsed that licence for a further period of twelve months. The penalties applied to an incident that occurred after the prizegiving at an event at Nelson in October 2005. Mr Hunter appealed to this Tribunal against both the finding of liability and the penalty imposed.
2. Mr Hunter raised jurisdictional matters and Kartsport applied to have these jurisdictional matters resolved at a preliminary hearing. Both parties agreed to this procedure and agreed that the matter could be resolved on the basis of their written submissions.
3. It was agreed that the Tribunal would, if possible, provide its jurisdictional decision by 5.00pm on 11 April 2006 because its decision may affect matters arising from a race meeting to be held during Easter. Many matters of concern arise from the jurisdictional point and some of these matters will require further consideration. However, the Tribunal does have a firm view on certain matters relating to jurisdiction and accordingly, is able to give its decision at this time. Because of the importance of some matters which arise, it wishes to take time over giving its reasons and these will be issued at a later date.

Discussion

4. As conceded by Mr Penlington in his submissions, the 2005 Karting Manual which applied in this case is not drafted as clearly as it could be. There are many matters not specifically referred to. One matter not referred to is the grounds of appeal to this Tribunal. In these circumstances Rule 12.1.3 of the Tribunal's Rules apply. That rule provides amongst other things that a ground for appeal is that natural justice was denied. In this case the Tribunal is satisfied that natural justice was denied and that the decision should be quashed.
5. The basis of the Tribunal's view will be set out fully in the reasons to be given. In short however, it is noted that Mr Hunter was denied natural justice in that he was initially judged to be at fault by Kartsport Nelson and summoned to a meeting of Kartsport New Zealand which was to determine penalty only. For reasons which do not need to be gone into at this stage, Mr Hunter did not attend that hearing which imposed the penalties.

6. On the more general question of jurisdiction, it is the Tribunal's view that Kartsport does have jurisdiction to determine the allegations against Mr Hunter. Its executive is entitled to do so. The quashing of the decision will therefore not prevent the Executive from looking at the matter further but it should refrain from doing so until it has considered the reasons for this decision which will give guidance on the procedure to be followed if it decides to proceed further with this matter.

Decision

7. The decision of Kartsport both as to liability and penalty notified to Mr Hunter by letter of 14 December 2005 is quashed.

A handwritten signature in blue ink, appearing to read 'Barry Paterson', is written over a light blue rectangular background.

**Hon Barry Paterson QC
Chairman**

11 April 2006