

INTRODUCTION

1. Mr McMaster participated at a race meeting in Nelson in October 2005. A steward alleged that he used his motor vehicle on a public road outside the meeting venue in an irresponsible and dangerous manner. The stewards convened a meeting and in the absence of Mr McMaster found the charge proved and imposed a penalty of \$1,000 together with 12 months endorsement to his licence. It recommended to the Executive of Kartsport that the licence be suspended for 6 months.
2. In November, Mr McMaster was notified of a further hearing but was advised that the hearing was to consider penalty only. He applied for an adjournment of the hearing which was not granted. He did not attend and was subsequently advised that the Executive had determined he breached certain rules and cancelled his licence for a period of 6 months, fined him \$1,000 and endorsed his competition licence for a period of 12 months.
3. Mr McMaster has appealed the decision and raised jurisdictional matters. Kartsport applied to have the jurisdictional questions determined in a preliminary hearing and this was consented to by Mr McMaster.
4. Because the 2005 Karting Manual does not set out the grounds for appeal to this Tribunal, the Tribunal's Rule 12.1.3 applies. One of the grounds available to Mr McMaster is that natural justice was denied.
5. To meet the wishes of the parties, a decision is being given at this stage but the reasons for the decision will follow at a later date.

Discussion

6. There is a jurisdictional point in this proceeding which may prevent Kartsport from determining this matter. However, on the information before it the Tribunal is unable at this stage to determine the validity of the jurisdictional point. However, it is clearly of the view that natural justice was denied Mr McMaster and that the decision of Kartsport should be quashed.
7. Mr McMaster was charged and tried in his absence by the stewards. Kartsport acknowledges that the stewards had no power to do this but alleges that the hearing which it conducted in November remedied this procedural defect. In the Tribunal's view it did not. The letter summoning Mr McMaster to the hearing advised him that he had been found to be in breach of Rule C2.6 and fined \$1,000 and had his licence

endorsed for 12 months. The letter reminded Mr McMaster that "your hearing is related to the penalty imposed for an incident which took place and evidence will only be admissible if it relates directly to that issue. Previous incidents and/or evidence which does not relate to this penalty will not be considered as admissible to this hearing".

8. Mr McMaster through his counsel applied for an adjournment which was not granted. Kartsport heard the matter in McMaster's absence. The President of Kartsport in a letter to Mr McMaster's counsel advised that Mr McMaster had been found guilty. This was notwithstanding allegations previously made by counsel that Kartsport had breached its own procedure and the rules of natural justice.
9. In quashing the decision, the Tribunal is not determining jurisdiction. Kartsport may have the jurisdiction to rehear this matter. However, before it does so it should take into account the comments which will be made and the reasons for this decision, which will be given shortly, as to both procedure and jurisdiction.

Jurisdiction

10. The jurisdictional point on which this Tribunal is unable to give a decision, because it does not have sufficient facts and would require to hear the witnesses before ruling, relates to where the event took place. Mr McMaster had left the racetrack when the incident occurred and it occurred on a public road. The reasons to be given will address this point and difficulties that there may be for Kartsport in establishing jurisdiction. However, at this stage it is not prepared to determine that there is not jurisdiction to rehear this matter.

Decision

11. The decision made by Kartsport in December 2005 finding Mr McMaster liable for breaches of Rules C2.6 and D3.1 and the penalties imposed is hereby quashed.



Hon Barry Paterson QC
Chairman
11 April 2006