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Sports Tribunal allows appeal against decision declining to hear bowler's appeal against dismissal of his protest

The Sports Tribunal has allowed an appeal against a decision of Bowls New Zealand (BNZ), to the extent that the matter is sent back to the appropriate bowling body to hear.

Jack Halka competed in a championship bowls match at Taradale and complained about the appointment of a "junior bowler" as a marker in the match. He protested to the match convenor and sought a re-match with a more experienced marker. A committee at the Bowls Taradale (BT) club rejected his protest.

Mr Halka then initially tried to appeal to BNZ but was incorrectly advised by BNZ that he had to appeal to Bowls Hawkes Bay (BHB). However, under the relevant rules his appeal should have gone to the BT Judicial Committee.

Mr Halka appealed to BHB. The BHB Judicial Committee decided after the hearing that it had no jurisdiction and considered Mr Halka's "*avenues for redress remain only with Bowls Taradale and they have been exhausted.*"

Mr Halka then appealed BHB's decision to BNZ. The BNZ Judicial Committee also adopted the position that Mr Halka's appeal against the protest decision could only be heard within BT. The BNZ Judicial Committee decided that it had no jurisdiction to hear the appeal from BHB as under the rules there was only one appeal right and the BHB Judicial Committee decision was the final disposition of the one appeal right available.

Mr Halka appealed to the Sports Tribunal on a number of grounds and asked for various orders. BNZ submitted the Sports Tribunal did not have jurisdiction to hear the appeal.

The Tribunal agreed that under the relevant rules of the various bowling bodies Mr Halka only had one right of appeal. Under the rules, a decision on appeal is final whether that decision is made by the "Judicial Committee" of a Club or of a Centre or of BNZ or by the Sports Tribunal. The rules were clear that there can be only one appeal.

However, the Tribunal considered that Mr Halka's appeal had not actually been heard. It would be "*curious if an appellant is led to the wrong appeal body and a finding to that effect, of no jurisdiction, is the disposition of the one appeal right.*" Mr Halka was led to lodge an appeal to BHB and his failure to lodge an appeal to the BT Judicial Committee cannot count against him. The Tribunal considered that the BNZ Judicial Committee should have sent the matter back to the BT Judicial Committee where it properly lay.

Therefore, the Sports Tribunal ordered that the appeal be sent back to the BT Judicial Committee to be heard. This was not to hear a second appeal as his appeal has not been heard at all. The Tribunal gave guidance on the matters that should be considered.

The decision in this case will be made available for download from the website of the Sports Tribunal (www.sportstribunal.org.nz). See *Jack Halka v Bowls New Zealand* (ST 12/10). Copies of the decision can also be obtained directly from Brent Ellis, Registrar, Sports Tribunal of New Zealand (telephone: 0800 55 66 80; e-mail: info@sportstribunal.org.nz).