

**BETWEEN**                      **NEW ZEALAND RUGBY LEAGUE INCORPORATED**  
  
   **Applicant**

**AND**                              **TIMOTI BROUGHTON**  
  
   **Respondent**

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**DECISION OF TRIBUNAL**

**Dated 20<sup>th</sup> day of December 2007**

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**Date of Hearing:**        **12 December 2007**

**Appearances:**        Timoti Broughton in person  
                                 Kevin Bailey for NZ Rugby League

**Tribunal Members Participating:**

Hon Barry Paterson QC, Chairman  
Adrienne Greenwood  
Carol Quirk

**Registrar:**              Brent Ellis

## INTRODUCTION

1. The respondent (“**Timoti**”) plays rugby league for the Hawera Hawks. He was selected to play for the Central Falcons in a Bartercard Cup match against the Lions at Mt Smart Stadium on 30 June 2007.
2. After the match Timoti gave a specimen to Drug Free Sport which on 23 August 2007 issued a determination under the New Zealand Sports Drug Agency Act 1994. The determination was that Timoti had committed a doping infraction and the drug was cannabinoids.
3. The applicant (“**NZRL**”) instituted this anti-doping rule violation proceeding before the Tribunal. Because the violation was committed before 1 July 2007, the provisions of the Sports Anti-Doping Act 2006 do not apply. It is necessary to determine the matter in accordance with NZRL’s anti-doping policy as it existed on 30 June 2007.
4. Timoti admitted the violation but participated in the hearing to determine the sanction. A telephone conference held on 12 December 2007 was, by the consent of both parties, converted to the hearing to determine the sanction.

### Timoti’s Position

5. Timoti signed an NZRL players’ registration form for the Bartercard Cup on 21 June 2007. This form acknowledged that he had read and understood the NZRL (Inc) Bartercard Cup National Club Competition code of behaviour, banned substances policy, concussion policy and smokefree charter.
6. Timoti in a written statement said:

“I apologise for my behaviour while I was undertaking my drug test. I just never thought about steroids and performance enhancing drugs. But I can assure you my smoking cannabis was at a party days before and for recreation uses only.”
7. In his oral evidence at the hearing Timoti advised that he had smoked the cannabis at a party a couple of days before the match. He said other people at the party were smoking pot and he was offered a smoke and took a puff. The fact that the cannabis was detected in the urine sample he provided a day or two later indicates that he may have taken more than a puff.

8. Timoti is aged 22. He has coached the Taranaki under 14 team. He recently commenced and is endeavouring to maintain his own rugby league club in Patea for kids.
9. When NZRL received the determination from Drug Free Sport, it provisionally suspended Timoti. As a result he missed several matches possibly as many as seven. In addition, he was a candidate for the Maori Rugby League team but was not able to play in the Maori tournament because of the provisional suspension.

## **Discussion**

10. The Tribunal accepts that Timoti did not smoke cannabis for performance enhancing purposes. Accordingly, the lesser sanctions provided for in Article 10.3 of the WADA Code apply.
11. The Tribunal has recently given several decisions in cannabis cases. In circumstances where the Tribunal determines that the drug has not been taken for sports performance enhancing purposes, it imposes a period of ineligibility of between one month and two months.
12. There are two reasons in this case why the Tribunal has determined that the penalty should be one month's ineligibility, at the bottom of its range. First, Timoti has already been quite severely penalised by the provisional suspension imposed on him. Secondly, notwithstanding the statement in the Bartercard Cup player registration form, Timoti has apparently not received any instructions or education on the banned substances policy. This is partly because the match at which he was tested was the first match he had played in in the Bartercard Cup competition and the registration form was signed a few days previously. He did not receive the usual pre-season education that other more experienced and recognised players received.
13. While Timoti is being given consideration because of the lack of education of the NZRL's drug policy, it does not follow that any subsequent players who may test positive for a prohibited drug which is a specified substance will receive the same consideration. It is recommended that NZLR communicate to its constituent associations the importance of properly advising all of its representative players of its anti-doping policy. A failure to properly instruct players may lead to those players being declared ineligible for a period of time.

14. Because of the effect of Timoti's provisional suspension, it is not necessary in this case to commence the period of ineligibility in the future.

**Decision**

15. Timoti is in accordance with the provisions of Article 10.3 of the WADA Code, which applies in this case, ineligible for a period of one month from the date hereof to participate in rugby league or any other sport which is a signatory to the WADA Code. The provisions of Article 10.9 of the WADA Code will accordingly apply for this period of one month.
16. Timoti is advised that if he were to further infringe, the minimum period of ineligibility which must be applied is a period of 2 years.

Dated 20 December 2007



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**Hon B J Paterson QC**  
**Chairman**