

Appeal decision

Decision Date: 22 April 2016

Hearing Date: 15 April 2016

Code of racing: Greyhound

Appeal panel: Mr B. Miller (Chairman) Mr P. James, Deputy Chairman and Mr D. Kays

Appearances: Mr N. Taylor, Solicitor appeared for Mr Anthony Hess
Mr M.J. Tutt, Solicitor appeared for Racing Queensland

Decision being appealed: Racing Queensland's refusal to grant a Class 2 Greyhound Trainer's Licence.

Appeal result: **Upheld**

Anthony Hess has appealed against a decision of the Licensing Committee of Racing Qld to refuse to grant him a Class 2 Greyhound Trainer's Licence. The appellant sought a Class 2 Greyhound Licence on 7 December 2015 after he had previously been a licensee as a Class 3 Greyhound Trainer Licence from 2008 to 2015 and the owner of a Breeder's Licence between 2013 and 2015. The Application for the Class 2 licence was rejected on 23 February 2016 and Racing Qld delivered a Statement of Reasons to the appellant setting out the basis of the determination to reject the licence such Statement of Reasons being dated 24 March 2016.

This Appeal was heard on 15 April 2016 some three weeks or more after the delivery of the Statement of Reasons. In the Statement of Reasons there is evidence that Racing Qld gave due consideration and considered a number of issues not the least of which was:

- (d) *On 8 November 2011 he was suspended from holding a licence in Queensland for a period of three months in respect to a breach of GAR83(1);*
- (e) *On 4 November 2014 Mr Hess submitted a Service Notice to Greyhounds Australia Australasia not being the owner of the breeding unit as required under GAR132(7)(d);*
- (f) *On 12 February 2015 he was suspended from holding a Greyhound Trainers and Breeder's Licence in Queensland for six weeks in relation to a breach of LR52(3);*

- (g) *On 13 May 2015 he was suspended from holding a Trainers and Breeder's Licence in relation to a breach of LR26 regarding occupation of a property of a disqualified person;*
- (h) *Mr Hess has a criminal conviction in Queensland relating to drugs.*

Racing Qld determined that, in all the circumstances disclosed to them, it considered Mr Hess was not a fit and proper person to be licensed and accordingly recommended to the appropriate Authority that the Application ought to be refused. It is against that refusal this appeal has been made.

This Board has considered all of the matters to which Racing Qld's Licensing Committee referred. It is not satisfied with the determination made by Racing Qld because in the preceding three years Mr Hess had provided disclosure to Racing Qld of the offences of which he had been convicted and the details thereof were within Racing Qld's files and all details were noted on the record of Mr Hess. Racing Qld however now suggest that it is entitled to disregard previous approvals when it should have been aware of the circumstances relating to the criminal charges.

Racing Qld had suggested that this Board should also take into account that the appellant's suspension on 13 May 2015 was for associating with a warned off person that person being Mr Tom Noble who was well known in the greyhound racing industry and the owner of a property which has now become synonymous with the practice of live baiting on 12 February 2015. Racing Qld submitted that the appellant's suspension as a result of his association with a warned off person as prominent as Mr Noble warranted the Licensing Committee's adverse consideration of the licence application. Mr Hess countered that suggestion by saying he had been living in his caravan on the property of Mr Noble because he had nowhere else to go and was resident in the property and in Mr Noble's house to facilitate his not being left in a position of sleeping *rough*. The stewards at Racing Qld were cognisant of that issue and did not raise any charge against Mr Hess in respect to his being a participant in live baiting.

It is therefore, in the opinion of this Board not appropriate for Racing Qld to bring before this Board evidence upon which they failed to rely initially in the Statement of Reasons and which they now seek to produce to justify a determination. It is somewhat of concern to this Board that the evidence that they put forward in support is not sufficient, in the opinion of this Board, to warrant a refusal to grant a licence. Mr Hess, this Board believes, has adequately answered any issue relative to this particular part of the refusal.

Of somewhat more significance, to this Board, is what appears to be a failure by the appellant to record the details of the criminal convictions that he had previously in the three years applications preceding. Counsel for Mr Hess confirmed that the appellant did so not so much by mistake as by believing that the request related to any new convictions of which Racing Qld were not aware. This Board accepts the proposition put forward by the appellant's counsel in that respect.



In all the circumstances this Board orders that the appeal be allowed and that the appellant's request for a Class 2 Greyhound Trainer's Licence be approved.

Further right of appeal information: The Appellant and the Steward may appeal to the Queensland Civil and Administrative Tribunal (QCAT) within **28 days of the date of this decision**. Information in relation to appeals to QCAT may be obtained by telephone on (07) 3247 3302 or via the Internet at www.qcat.qld.gov.au

