

Appeal decision

Date: 10 March 2014

Code of racing: Harness

Appeal panel: Judge W Carter (chair), Mr D Kays and Mr G Casey.

Appearances: Driver Lola Weidemann appeared on her own behalf.
Mr L Wilson, stipendiary steward, appeared on behalf of the stewards.

Decision being appealed: Suspension of licence to drive in races for a period of two weeks – AR165(1)(a).

Appeal result: Appeal dismissed.

Extract of proceedings – in the matter of the Get The Trottips Gameplan Trotters Handicap over 2138 metres at Albion Park on 24 February 2014. Driver: Lola Weidemann

THE CHAIRMAN: This appeal by Miss Weidemann is against the decision of stewards made on 24 February 2014 whereby she was found guilty by the stewards of a breach of Rule 165(1)(a). That rule in its terms is quite specific. It provides that "From the start through the first turn and until reaching the next straight a driver shall: (a) maintain with the inside wheel of the sulky a course which is at least 30 centimetres wider on the track than the course being made good by the outside wheel of the sulky of the horse that is racing in the next position closer to the inside running line."

By reference to the rule, the horse being driven by Miss Weidemann was to the outside of the horse being driven by Mr Dawson, and in terms of the rule it was her obligation under that rule to maintain the position which in terms of the rule was at least 30 centimetres wider on the track than the course being made good by the outside wheel of the sulky being driven by Mr Dawson. The stewards alleged that that rule was breached in those terms because she did not maintain that separation.

The film of the race confirms that. Indeed Miss Weidemann somewhat generously conceded that there was a breach of the rule. It seems to us in dealing with the submissions that Dawson from the start did establish a two-wide line and he was entitled to remain there. At the same time it seems to us clear again from the film that Miss Weidemann did shift her position inwards and as a result of that the rule itself was breached. It resulted in the two horses breaking gait.

In all the circumstances, we consider that the stewards were entitled to come to the conclusion which they did and to find that she was in breach of the rule.

The question of penalty has also been raised. We would like to make it clear without being entirely specific that there is a discretion in this board as to how it penalises. At the same time we are concerned to ensure, and justice requires, that there be uniformity. Obviously, each case will turn on its own facts and may give rise to discussion, but we are strongly of the view that the rule is designed for a specific purpose and is quite specific in its terms, and that being so, we think that this was one of those very cases that the rule was designed to eliminate, if possible.

There has been some discussion about the two weeks penalty, and we take Miss Weidemann's point. She is a leading driver. But in all of the circumstances it is consistent with what stewards have imposed before and which we have upheld in this board.

In the circumstances, we would dismiss the appeal against conviction and the appeal against penalty.

Further right of appeal information: The appellant and the stewards may appeal to the Queensland Civil and Administrative Tribunal (QCAT) within **14 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