

Appeal decision

Date: 2 October 2014

Code of racing: Harness

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

Appearances: Mr K Ebert appeared on behalf of driver Nathan Dawson.
Mr D Farquharson, chairman of stewards, appeared on behalf of the stewards.

Decision being appealed: Suspension of licence to drive in races for 14 days – AR168(1).

Appeal result: Appeal dismissed. Penalty reduced.

Extract of proceedings – in the matter of the Gold Property Woodford Pace over 2040 metres at Redcliffe on 11 September 2014. Driver: Nathan Dawson

THE CHAIRMAN: We have considered the issues relevant to the appeal and comments made firstly by Mr Ebert, and for those comments we are thankful. Certainly Mr Ebert has identified that there is some basis on which it would have appeared on one view of the film that there was more than adequate room, and on another view through Mr Farquharson's observations, the view of that film – that is, from the rear – gives an incorrect and perhaps an overriding view that it shouldn't be looked at too seriously.

One of the things that we have some difficulty with has become the interpretation of the three rules that may relate to the basis upon which a charge may have been levelled in this instance against the driver Dawson. Mr Farquharson has identified that the rule that relates to interference from the commencement – that is the start to the first turn – was considered by the stewards and we accept that more likely than not it is just on the point of the turn out of the first turn that this interference occurred, perhaps getting close to the other straight, which is called the front straight.

Whether or not that rule is intended for that purpose is something that we have not addressed for the purposes of this appeal. We are satisfied that Mr Dawson when driving his horse from a three-wide position identified that he was not able to progress forward, was intent on arriving at a position behind the number one horse, that is on the rails, and to assist him in that regard he did look. He saw that Veivers, the driver of Gargarra, which subsequently suffered some interference, was what might be termed a little slow out of the gates, and took the option to proceed across from that three-wide position.

The stewards of course identified that in doing so he was careless under the relevant rule, and identified that he should be penalised with a 14-day suspension of his driver's licence.

Mr Ebert of course in his submissions identified that Mr Dawson was a young man just starting out in the industry, never having been penalised by a way not of a reprimand or caution but by way of a suspension under this particular rule, and for that obviously stewards have kept a close eye on his ability and obviously believe that he has the ability to perform in the industry. Mr Dawson seems intent on making this his life work and is to be congratulated on that basis.

It is unfortunate that he was in a position where, having looked on the one occasion, he did not continue to identify that Mr Veivers then seemed to identify that he was going to progress forward notwithstanding whatever the consequences. Perhaps as one might say he went where angels fear to tread or where one should not have gone.

On the other side of the equation, there is the driver Mr Diebert, who was driving in the number two position. He was restraining and so, to one degree or another, Mr Dawson became what can be considered to be a victim of some circumstances.

The question is: was he careless in continuing to manoeuvre, and the answer to that, in the opinion of this board, is that he was careless but to a degree less than the standard that would ordinarily be imposed to warrant a suspension of a driver's licence.

We have looked at the penalties that have been imposed on his licence and on others in respect to the imposition of this rule, and we believe that for a person of his ability, experience and his make up that the penalty that should be imposed in lieu is that of a fine of \$200, and that is the penalty that will be imposed.

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