

Appeal decision

Date: 17 April 2014

Code of racing: Thoroughbred

Appeal panel: Judge W Carter (chair), Mr P James and Mr N Thomson.

Appearances: Mr D O'Keefe appeared for apprentice jockey Brooke Richardson.
Mr D Aurisch, deputy chairman of stewards, appeared on behalf of the stewards.

Decision being appealed: Suspension of licence to ride in races for a period of four months - AR135(b).

Appeal result: Appeal dismissed.

Extract of proceedings – in the matter of the Mount Franklin Sparkling Open Handicap over 1500 metres at Eagle Farm on 22 March 2014. Apprentice jockey: Brooke Richardson

THE CHAIRMAN: In a recent appeal this board emphasised the long-standing principle in Rule 135(b) cases that, if stewards are concerned with the running and handling of the horse, they must objectively assess the jockey's ride to determine whether it is culpable or blameworthy – and the level of that default, if any. That principle is clear enough: the circumstances which will call for its application are many and varied.

This is a case where the rider pleaded guilty to a breach of Rule 135(b) and appeals against the penalty of four months suspension.

Stewards considered that the appellant's ride in the race fell "well short of a reasonable standard" and further that the degree of culpability and blame worthiness was "high". In deciding upon a suspension of four months they said that "had it been a more experienced rider (the appellant is an apprentice) the penalty would justifiably have been of the order of six months or longer."

We agree generally with the assessment made by the stewards of this ride. Plainly from the 150 metre mark the appellant was presented with a clear run, particularly approaching the 100 metre mark. Not only did the rider fail to take advantage of that run, she failed to ride her horse to the finish with the necessary vigour, and so improve the horse's position at the finish. The stewards' decision describes her as "sitting motionless on the horse". It was only

in the last three or four strides that the jockey applied pressure to Raeburn which went to the line strongly and finished fourth.

Our assessment of the film evidence accords with the stewards' observations. A clear run was available to her and when she finally took advantage of it she failed to ride her horse as required by Rule 135(b) until the last few metres.

This Board has previously sought to distinguish between Rules 135(a) and (b). Whilst Rule 135(a) requires that the horse be allowed to run on its merits, Rule 135(b) requires that the rider take all reasonable and permissible measures "to ensure that the horse is given full opportunity to win or to obtain the best possible place in the field." Plainly, in our view, Raeburn was denied that opportunity by its rider.

The only explanation offered by the appellant was, when she was giving evidence at an adjourned hearing, she referred to her recent fall and the fact that her confidence and decision-making may have been adversely affected.

At the appeal, she was supported by two respected sports psychologists, Ms Jones and Ms Stevens, who opined that the judgement and decision-making ability of a jockey, who had recently suffered a fall, may well be impaired and that it was proposed that Ms Jones would counsel the appellant as required. Indeed it was submitted by Mr O'Keefe, who appeared for the appellant, that this board should reduce the suspension and require that the appellant continue to consult Ms Jones as required by the board.

Whilst we acknowledge that a rider who has recently had a fall may tend to ride more conservatively and with added caution, we cannot accept in this case, given the circumstances of the race, the jockey's ride and the nature and extent of the available run, that her state of mind was, in any real sense, effective or decisive in her obvious failure to give Raeburn full opportunity to win or to obtain the best possible place in the field.

Mr O'Keefe referred us to other cases where a rider's state of mind may have been impaired, for any number of reasons, in the course of a race and where that matter has been reflected in the penalty imposed.

Clearly stewards must be at a significant disadvantage in objectively judging the worth or otherwise of such an excuse for a breach of Rule 135(b).

Other relevant facts are that since her fall in December and before this ride on 22 March the jockey had ridden in 23 races, but as Mr O'Keefe emphasised she had led or had raced close to the lead in a majority of those. We note also that the jockey must have considered herself competent to ride and that this personal assessment of hers was supported by appropriate medical opinion.

There are competing considerations which need to be considered.

The logic of a rule such as Rule 135(b) is clear - even clearer in the case of Rule 135(a). The lifeblood of thoroughbred racing in this State and elsewhere is the consistent and adequate financial return to the industry from wagering which can enhance the availability of prize money. If the wagering public has little or no confidence that a rule such as Rule 135(b) will be enforced, this must impact upon the public's confidence to invest. Any experienced racegoer viewing the film of this race, particularly those who had included Raeburn in their bets, would be entitled to conclude that their financial loss was clearly avoidable and that this jockey's ride denied them full opportunity to secure the integrity of their wager.


It needs to be said again that every jockey, once he/she accepts a ride in any race, owes a pressing obligation not only to the owner and trainer but also to the racing public. The assumption has to be made that the jockey's physical and mental state is such that this public duty can be discharged. Given the nature of the objective assessment required of the stewards, that principle cannot be unduly diminished by subjective or personal factors relevant to and known only by the jockey.

The rule imposes the obligation; the jockey must comply with it; if he/she cannot for any personal or subjective reason fully comply with it, he/she must withdraw or bear the consequences. To hold otherwise would be to diminish the strictness of the liability which attaches to this rule. Rule 135(b) in its terms is not negotiable. The proper application of it will become exceedingly difficult if not impossible to apply if regard has to be had in every case to the personal and subjective idiosyncrasies of the particular jockey at a particular time in the particular race.

Furthermore, other relevant persons, be they licensees or otherwise, also need to be aware that Rule 135(c) empowers stewards to penalise any person who, in their opinion, has breached or is a party to a breach of either Rules 135(a) or (b) and further that the horse remains liable to disqualification.

There can be no doubt that diminished confidence in the integrity of racing must have a negative impact on its well being. One knows that there are those who are either ill informed or intent only on negativity who persistently allege the failure of stewards to ensure integrity in racing. This board rejects that view unequivocally and itself remains intent only on ensuring justice in the application and enforcement of the Australian Rules.

We should add that we have had the advantage of perusing the range of penalties applied in this and other jurisdictions for a breach of this rule. Not surprisingly they vary as one would expect. Mr O'Keefe submitted however that four months suspension in a Rule 135(b) case is exceptional and exceeds the general level of penalty. So much, in our view, depends upon our objective assessment of this ride. The fact that this penalty may be, on a purely statistical basis, at the higher end of the scale, may afford only limited assistance. We can only say, again, that this was a seriously offending ride.



It is our firm view that in this case a suspension of four months was appropriate and that our assessment of the ride coincides in all respects with that of the stewards. We therefore confirm the suspension of four months and dismiss the appeal.

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

