

Appeal decision

Date: 20 August 2014

Code of racing: Thoroughbred

Appeal panel: Mr P Elliott (chair), Mr R Dickinson.

Appearances: Licence applicant Aaron Fox appeared on his own behalf.
Mr W Birch, general manager, Stewards and Integrity Operations, Racing Queensland, appeared on behalf of the stewards.

Decision being appealed: Refusal by Racing Queensland to grant a trackwork rider's licence.

Appeal result: Appeal dismissed.

Extract of proceedings – in the matter of the refusal by Racing Queensland to grant a trackwork rider's licence. Licence applicant: Aaron Fox

THE CHAIRMAN: Mr Dickinson and I have considered all the facts. We have had a look at the exhibits. We have also read the case that was tendered to us, and we have also listened to the submissions.

In considering the matter we note that this is an appeal against the decision of Racing Queensland, who refused to grant the appellant a trackwork rider's licence. Notice of the decision was sent to the appellant by way of a letter dated 31 July this year, and the appellant lodged an appeal on the same day.

The appeal notice states that the appeal is against the conviction, and the grounds of the appeal are unclear. We have allowed the appellant to amend that notice to state that the decision by Racing Queensland to refuse the application was wrong.

We are aware that under Section 149S1(a) of the Racing Act there is an inclusion that an appealable decision is a refusal by the control body to grant a licence to a person. So we have jurisdiction to deal with the matter.

Racing Queensland relies on the licensing scheme policy, which came into effect, as I understand, on 1 May 2013, and that provides a system for Racing Queensland to assess applicants seeking to obtain licences. Section 86 of the Act provides that one of the purposes of the scheme is to ensure the integrity of racing activities. Taking this into account, all licensees must establish to the satisfaction of Racing Queensland that they are fit and proper to be licensed.

In the present case the appellant has a number of recent criminal convictions for dishonesty, which are set out in Exhibit 2. The appellant has completed an application, which is Exhibit 1, as follows:

Question 18: "Do you have any prior convictions or charges, including guilty without conviction?" The answer was "No".

And: "Do you have any prior criminal convictions?" The answer is "No". That was question 19.

He has also completed a declaration that accompanies the application in which he states:

"All information I have provided to Racing Queensland in this application form is true and correct in every particular, and I understand that Racing Queensland will rely upon the information I have provided in this application form for the purpose of determining whether I'm an appropriate person to receive a trackwork rider licence."

When considering this appeal, Mr Dickinson and I take into account the provisions of Section 149ZE(3) of the Act, which provides that this hearing is by way of rehearing, unaffected by the appealable decision being appealed against, and on the material before the relevant control body, and any further evidence which has been allowed by us today.

The panel has also considered the comments made in the decision of Ronald Jackson. That was Exhibit 8. That was decided recently, on 17 July this year. In particular, the following:

"The need for integrity in racing and racing participants cannot be understated."

We also note the chairman in that matter stated the following:

"The mere fact of a person's conviction for a particular offence does not require the control body to refuse an application. That, however, is not to understand its relevance. The policy has to be applied within an acceptable level of flexibility, which, almost invariably, will require that the facts of the offence, conviction and penalty must be considered not only with relevance to its facts and circumstances but in the wider context which invariably require an assessment of its impact or otherwise on the good nature of the racing industry."

Taking the above into account, we consider the honesty and character of the appellant to be paramount. We note the appellant has been convicted of a number of offences of dishonesty. We note the appellant has served a term of imprisonment in respect of those convictions, and a number of those convictions were in 2012 and 2013, which we consider very relevant. Although the appellant contends the completion of the application form was a mistake, taking into account the declaration made by him, we don't accept that submission.

In all of the circumstances, we consider the appellant to be a person who poses a significant risk to the integrity of racing activities, which are conducted as part of the racing code. We



do not believe he is in these circumstances a proper person to hold a licence and we dismiss this 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

