

DETERMINATION AND REASONS FOR DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT : ALLAN CHRISTOPHER LEWIS
APPLICATION NO. : A30/08/247
PANEL : MR D MOSSENSON (CHAIRPERSON)
DATE OF HEARING : 1 MARCH 1995

IN THE MATTER OF an appeal by Mr A Lewis against the determination of the Western Australian Trotting Association Stewards on 22 February 1995 imposing a 7 day suspension and \$200 fine under Rules of Trotting Rule 440(a).

Rule 440(a) states:

"Any driver who, in the opinion of the Stewards, caused or contributed to any crossing, jostling or interference by foul, careless or incompetent driving shall be deemed guilty of an offence against these Rules and may be dealt with accordingly."

At the Stewards' inquiry, the appellant was charged as follows:

"... as you've raced out of the end of the back straight on the first occasion after the start of Race 3 you've not been sufficiently clear to manoeuvre your horse to the rails and as a result contact occurred and SOBERASA JUDGE has lost ground and it raced roughly. ..."

I have carefully listened to the submissions which have been made, have had the opportunity of viewing the video and I have had the benefit of observing Mr Lewis' description of the event by means of his drawing and demonstration on the whiteboard.

I confirm that the video has not been of any assistance to me in deciding the matter. So far as the whiteboard demonstration is concerned it has been of some help in at least setting the scene of the incident and giving me some better overall appreciation of the context in which the incident did occur.

Although Mr Lewis has presented his submissions with conviction and sincerity it does need to be said that he has presented his subjective version of the matter sometime after the incident and the inquiry, at a time when he has had much opportunity to give careful consideration to the best perspective that he can place on his own position in framing his own submission.

The evidence from the Stewards at the inquiry was presented by Mr Sullivan, whom I am told is an experienced Steward. Mr Lewis would have me believe that there is some inconsistency in the different parts of Mr Sullivan's evidence. I am not persuaded of that fact and as I have previously suggested the earlier evidence of Mr Sullivan is open to an interpretation which does not place it in conflict with what he says later in the course of the proceedings.

I am satisfied that Mr Wallrod's evidence does afford some support and corroboration of Mr Sullivan's evidence and it does appear to me that the evidence from that particular driver is fair and relatively objective. In all of those circumstances I have come to the conclusion that the Stewards were entitled to reach the opinion which they did of the particular incident. In that case I dismiss the appeal on the question of conviction. I am satisfied that there has been no error on the part of the Stewards.

In arriving at their penalty the Stewards have expressly acknowledged the difficulty of their task in this particular matter. It appears from reading the transcript and also from listening to the submissions that have been made, that the Stewards have not erred in arriving at the decision of imposing a penalty of a \$200 fine together with the 7 day suspension.

It has not been demonstrated that there has been error on the part of the Stewards in all of the relevant circumstances of this particular matter. I therefore confirm the penalty which has been imposed and dismiss the appeal on this aspect as well.

The Order suspending the operation of the penalty automatically ceases to operate. The fee that was paid on lodgement of the appeal is forfeited.



DAN MOSSENSON, CHAIRPERSON

23/5/1995

