

DETERMINATION AND REASONS FOR DETERMINATION OF  
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT : CHRISTOPHER SHEEHY

APPLICATION NO. : A30/08/261

PANEL : MR D MOSSENSON (CHAIRPERSON)  
MS P HOGAN (MEMBER)  
MR J SYME (MEMBER)

DATE OF HEARING : 3RD AUGUST 1995

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**IN THE MATTER OF an appeal by Mr C Sheehy against the decision of the Western Australian Trotting Association Stewards on 18 July 1995 imposing a \$500 fine and suspension of 6 months for contravening Rules of Trotting Rule 503**

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Mr B Whiteman was granted leave to represent the appellant.

Mr M Skipper represented the WA Trotting Association Stewards.

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Rule 503 of the Rules of Trotting states :

"The Stewards may :

(a) *require any driver engaged for or having driven in any race or any official to undergo any test or examination considered necessary by the Stewards, including without limitation the provision of a sample of breath, blood or urine, to determine whether the driver is under the influence of alcohol or drug; and*

(b) *analyse or cause to be analysed any sample so provided in any manner determined by the Stewards."*

It is clear from the passage at the bottom of page 20 and the top of page 21 of the transcript of the Stewards' inquiry that in imposing the penalty of six months suspension coupled with a five hundred dollar fine the Stewards took into account the following matters:

1. The serious nature of the offence;
2. The need to deter others;
3. That this was Mr Sheehy's first offence under this rule and;
4. Mr Sheehy had pleaded guilty to the charge.

However, there is no indication that the Stewards took into account Mr Sheehy's poor financial circumstances and the domestic implications of the penalty. In view of the importance of these latter factors the Tribunal is satisfied, in the particular circumstances that now confront Mr Sheehy, that the penalty is excessive. The Tribunal does vary the penalty, pursuant to Rule 58 of the Rules of Trotting, by suspending the fine for a period of twelve months on the condition that Mr Sheehy does not breach any rule contained in Part 43 of the Rules of Trotting. Accordingly, if Mr Sheehy breaches any rule within that Part again within the twelve month period, the fine shall be paid in addition to any penalty which may be imposed for the second breach.

In all of the circumstances of the matter it is not considered to be proper to order that there be a refund of the lodgement fee.

*Dan Mossenson*

DAN MOSSENSON, CHAIRPERSON

11/10/95

