

**DETERMINATION AND REASONS FOR DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL**

APPELLANT: VICKI LANE
APPLICATION NO: A30/08/287
PANEL: MR D MOSSENSON (CHAIRPERSON)
DATE OF HEARING: 14 DECEMBER 1995

IN THE MATTER OF an application for leave to appeal by Mrs V Lane under section 13(1) of the Racing Penalties (Appeals) Act against the determination made by Western Australian Turf Club Stewards on 6 October 1995 imposing a six month disqualification under Rule 178.

Mrs Lane represented herself.

There was no representation on behalf of the WA Turf Club Stewards.

This is an application for leave to appeal against a determination of the Western Australian Turf Club Stewards which was made on 6 October 1995 against a 6 month disqualification in breach of Australian Rule of Racing 178.

S16 of the Racing Penalties (Appeals) Act specifies that an appeal shall be instituted by lodging with the Registrar a Notice of Appeal within 14 days after the determination or finding appealed against. In other words, in compliance with that provision Mrs Lane's appeal should have been instituted by no later than the 21 October 1995.

S17(2) of the Act empowers the Tribunal to enlarge or abridge the times fixed or appointed by this Act as the Tribunal sees fit. In other words, there is a discretion vested in the Tribunal to cure this defect. However, even although the Act does not spell out the basis upon which that discretion be exercised it must not be arbitrarily exercised and it has to be according to law. That means that there must be demonstrated some good or sufficient reason why in all of the circumstances it is appropriate to enlarge time to allow the matter to proceed as an appeal.

From the written submissions made on behalf of the Stewards, I have been informed that at the conclusion of the Stewards' inquiry after the penalty was imposed Mrs Lane was informed of her rights of appeal. Further, approximately one hour after that Mr Lane spoke with the Chairman of the Stewards at the Turf Club offices and asked whether the horse could race the following day if "*they appealed*".

It is clear that Mrs Lane was appraised of her potential rights to take this matter further by way of an appeal. I am not being invited for reasons of ignorance or lack of knowledge to exercise the discretion in favour of allowing the matter to proceed. In fact, Mrs Lane seems only to rely on the explanation for delay as being that with the passage of time and as the consequences and significance of the penalty have become more apparent to her she now feels inclined to appeal whereas previously she did not.

I note in passing that the Stewards have informed me in their written submission that in view of this passage of time and in conformity with the policy of the Stewards the tape of the inquiry has now been erased and no transcript of the proceedings can be produced.

In all of the circumstances of this matter I am not persuaded to enlarge time and approve this application. Without there being a good explanation or valid excuse for the delay it would not be appropriate for me to exercise my discretion in favour of Mrs Lane. Accordingly, the application is refused.

The fee paid on lodgement of the application is refunded.



DAN MOSSENSON, CHAIRPERSON

31/1/96

