

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

APPELLANT: REGINALD WILLIAM RAYMENT
APPLICATION NO: A30/08/292
PANEL: MR D MOSSENSON (CHAIRPERSON)
DATE OF HEARING: 1 FEBRUARY 1996

IN THE MATTER OF an appeal by Mr R Rayment against the determination made by the Western Australian Turf Club Stewards on 12 January 1996 imposing a \$500 fine under Rule 175(j).

Mr Rayment represented himself.

Mr F Powrie represented the West Australian Turf Club Stewards.

Following a Stewards' inquiry which took place on the 12 January 1996, Mr Rayment was charged with a breach of Australian Rule of Racing 175(j). That Rule states:

"The Committee of any Club or the Stewards may punish:

...

(j) Any person guilty of improper or insulting behaviour at any time towards the Committee of any Club or Association or any member thereof, or Stewards, or any Official in relation to their or his duties."

Mr R W Rayment appeals against both the conviction and the penalty which was imposed, being a fine of \$500.

The grounds stated in the notice of appeal simply allege that it was an "*unfair hearing, my property was stolen and I objected no prior warning was given.*"

The facts that were revealed before the Stewards are that Mr Tuckey had removed the ropes in the stalls at the training establishment which subsequently caused severe inconvenience and some danger to the appellant's wife and young female apprentice when they brought the appellant's horses to the stall area. No prior warning had been given and the persons handling Mr Rayment's horses were unaware of the fact that the ropes had been removed. As a result, shortly afterwards at the coffee shop at the Turf Club Mr Rayment told Mr Tuckey precisely what he thought of Mr Tuckey's actions and what he would do if this occurred again.

During the course of the proceedings before the Stewards and again before me, Mr Rayment protested that Mr Tuckey had "stolen his gear". The facts do reveal that some time after the incident Mr Rayment did manage to recover the gear that was being kept with the gear of other trainers at the Turf Club.

It appears from the material before the Stewards that the Committee of the Turf Club had resolved to remove the ropes in the training stalls and that such resolution had been communicated to the Stewards. Mr Tuckey at the time in question was acting pursuant to that resolution.

There is some uncertainty because of the different versions as to the precise words that were uttered by Mr Rayment. Despite that, it is very clear that the language employed was threatening and insulting. Mr Goddard gave some independent corroboration to support Mr Tuckey's version of what was said and how the incident occurred.

In Anthony Robert Oram (Appeal 035) which was heard on the 19 August 1991 Mr Oram appealed against a disqualification for twelve months for a breach of Rule 175(j) being the same rule as the rule in question in this matter. Mr Oram was charged with improper behaviour in that following his actions in the Main Reef Tavern in Kalgoorlie an incident occurred in which he struck a Mr Scarvaci who was a Committeeman of the Kalgoorlie-Boulder Race Club. Mr Oram admitted that he struck Mr Scarvaci but claimed he did so in self-defence. The Tribunal came to the conclusion that the conduct of Mr Oram at the bar of that tavern just prior to the striking incident was provocative and insulting to Mr Scarvaci. The Tribunal went on to state:

"The Tribunal is conscious of the fact that it is desirable in the interests of the racing industry generally that committee people, who voluntarily give of their time to the industry, should be able to go about their affairs both in relation to the industry as well as outside of it, without the threat or fear of insults and physical violence from a participant of the sport."

The Tribunal concluded that the Stewards did have jurisdiction under the Rules of Racing to lay the charge in the Oram case despite the fact that the incident occurred away from the track and outside public licensed premises. The Tribunal also concluded that the twelve month disqualification was an appropriate one in all of the circumstances of that particular matter.

The rule in question is clear in that it specifies that an offence of the nature with which we are concerned may occur "at any time" towards the Committee of any club. I am satisfied in the circumstances that it was irrelevant, despite Mr Rayment's arguments to the contrary, that he should have been exonerated on the basis that Mr Tuckey was at the course at the relevant time in his capacity as a strapper who was assisting his son, or indeed, that he was there in some other capacity and not as a member of the Committee when in the coffee shop.

In all of the circumstances I am not persuaded that it was an unfair hearing as alleged by Mr Rayment or that the Stewards in any way fell into error in convicting Mr Rayment on the basis of Mr Rayment's allegations that the property was stolen and no prior warning was given. With the material that was before them the Stewards were entitled to convict him. Equally I appreciate that Mr Rayment was entitled to be upset due to the unorthodox circumstances. Despite that fact, by virtue of being a licensed trainer Mr Rayment is obliged to conduct himself in accordance with the Rules of Racing. For these reasons I confirm the conviction which was imposed by the Stewards.

In relation to the remaining aspect of penalty I note that the Stewards have stated at page fourteen of the transcript in arriving at a penalty:

“... the Stewards are aware of the situation and certainly the circumstances leading up this particular incident, however, we believe it is inappropriate that you conducted yourself in the said manner and particular towards the Chairman of the West Australian Turf Club.”

It is not entirely clear upon what basis the Stewards came to the decision to impose a fine of \$500. The Stewards certainly have not set out any reasons for that particular fine in the course of announcing the outcome of their deliberations on the penalty. Even although there were some mitigating circumstances, namely the fact that Mr Rayment was upset at the time, there was no warning given and the fact that Mr Tuckey's unorthodox conduct caused inconvenience and some danger to others, they still did not excuse the behaviour. As the evidence establishes and I have already found that the Chairman of the Turf Club was within his authority in taking the actions which he did.

I appreciate that Mr Rayment does have a good record by many peoples standards in the industry, although he did mislead me in stating, in the course of his submissions, that he had never broken the Rules of Racing.

This is a difficult matter to resolve but I am satisfied on balance that Mr Rayment has not demonstrated that there was any error on the part of the Stewards in imposing the fine.

Accordingly I confirm the penalty which has been imposed. For these reasons I dismiss the appeal.

The fee paid on lodgement of the appeal is forfeited.



DAN MOSSENSON, CHAIRPERSON

15/3/96

