

DETERMINATION AND REASONS FOR DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT: CHRISTINE ROBARTSON
APPLICATION NO: A30/08/297
PANEL: MR D MOSSENSON (CHAIRPERSON)
DATE OF HEARING: 6 MARCH 1996

IN THE MATTER OF an appeal by Mrs C Robartson against the determination made by Western Australian Greyhound Racing Association Stewards on 1 March 1996 imposing a one month disqualification of BARELEN LASS under Rule 170.

Mr C Harrison was granted leave to represent Mrs Robartson.

Mr R Poole represented the WA Greyhound Racing Association Stewards.

This is an appeal by Mrs Robartson as the trainer of the greyhound BARELEN LASS in relation to an incident which occurred at Mandurah Raceway on Friday, 1 March 1996 during Race 6 which was conducted over 530 metres. I have had the benefit of the transcript of the inquiry of the Stewards which took place after the incident and also of viewing the video of the race, both side on and front on. I have also had lengthy submissions presented to me by Mr Harrison on behalf of the appellant as well as contributions in the course of the proceedings from both Mrs Robartson and Mr Robartson the handler of the greyhound.

The Stewards, after conducting their inquiry, formed the opinion that the greyhound did fight in the course of the running of the race and was in breach of Rule 170 of the Rules Governing Greyhound Racing in Western Australia and as a result was disqualified for one month.

Rule 170 of the Rules Governing Greyhound Racing in Western Australia states:

- “(1) Where in the opinion of the Stewards a greyhound fights during a race the Stewards shall submit a report of their findings to the Board and shall disqualify the greyhound in accordance with this Part of these Rules.*
- (2) Any question as to what constitutes the act of fighting shall be determined by the Stewards.”*

Rule 172(1)(a) goes on to require that for a first offence, a disqualification of one month at the track where the offence occurred, shall be imposed.

In the course of argument I was referred to the appeal of *Gerard O'Keefe* (No. 205 heard 6 July 1994) in which the Tribunal set out that in order to constitute fighting "*The Stewards require the formation of an opinion that the greyhound both turned its head and made muzzle contact.*" In the event of any doubt the greyhound would always get the benefit of it.

I am not persuaded that the Stewards were in error in forming the opinion which they did of this particular incident based upon all of the material that is before me.

Two separate grounds are contained in the notice of appeal.

The first is that the greyhound did not fight. I am satisfied that the Stewards were entitled to form the opinion which they did and properly come to the conclusion that the greyhound did fight. They had the benefit of the clear and precise evidence which was presented by Mr Kemp early in the inquiry proceedings. Mr Kemp stated in his capacity as the Steward stationed in the tower overlooking the winning post that he observed the number three greyhound veer in, turn its head, and to make muzzle contact with the number four greyhound.

I appreciate, as has been conceded by the Stewards, that the head on video is of poor quality and that a close examination of that particular video may leave some doubt as to precisely what happened at the relevant moment. The Stewards of course were not simply relying on that video as they had the benefit of other material placed before them.

The second ground is that the opinion of the Stewards could not be justified by any evidence. It is clear from the material in the transcript that there was sufficient evidence which the Stewards were entitled to rely upon in order to come to the conclusion which they did. This is not the case were it can be said that no reasonable Stewards armed with all of the relevant information which was placed before these Stewards could not reasonably have arrived at the opinion which these Stewards did on this occasion in relation to this incident.

Whilst there has been a conflict between the version or explanation of the incident which the appellant would have me believe and the ultimate conclusion of it which was reached by the Stewards, that fact on its own is no basis for me being satisfied that the Stewards were in error or that this was not a case of a breach of the Rule in question having occurred.

It has been argued by Mr Harrison that if there is any doubt, that doubt should be resolved in favour of the greyhound. This is not a case where the Stewards were in any doubt in arriving at their conclusion of the incident.

In all of those circumstances the appeal fails. The fee paid on lodgement of the appeal is forfeited.

Dan Mossenson

DAN MOSSENSON, CHAIRPERSON

15/3/96

