

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

APPELLANT: JOYCE MERYL THOMPSON

APPLICATION NO: A30/08/303

PANEL: MR D MOSSENSON (CHAIRPERSON)
MR J SYME (MEMBER)
MR T MULLIGAN (MEMBER)

DATE OF HEARING: 23 MAY 1996

IN THE MATTER OF an appeal by Mrs J M Thompson against the determination made by Western Australian Greyhound Racing Association Stewards on 15 April 1996 imposing a three month disqualification of BUSY BLUE under Rule 170 of the Rules Governing Greyhound Racing in Western Australia.

Mr N Thompson was granted leave to represent Mrs Thompson.

Mr R Poole represented the Western Australian Greyhound Racing Association Stewards.

This is an appeal brought by Mrs J Thompson against the conviction by the Stewards of the Western Australian Greyhound Racing Association after an inquiry which was held on the 15 April 1996, following the running of Race 3 at Mandurah Raceway. The Stewards had received a report that Mrs Thompson's greyhound BUSY BLUE had fought during the running of the race. The greyhound was suspended for three months under Rule 170 of the Rules Governing Greyhound Racing in Western Australia.

During the course of the appeal, following the concession which was made by Mr Poole on behalf of the Stewards, this matter proceeded on the basis of three separate and distinct grounds of appeal, namely:

1. a bad lure driver;
2. that there was no muzzle contact; and
3. a wrong interpretation of the Rules.

Rule 170 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."*

It is clear from these particular provisions that the Stewards are empowered to form the opinion of the matter and have the discretion to determine precisely what does constitute the act of fighting. This Tribunal in an earlier decision in relation to the appeal of *Gerard O'Keefe*, (Appeal 205 heard on the 6 July 1994), concluded that there were two elements to the act of fighting namely turning of the head and making muzzle contact.

In order for this Tribunal to interfere with a determination made in respect of a Rule which specifies "*in the opinion of the Stewards*", we have to be satisfied that no reasonable Stewards, armed with all the relevant information, could reasonably have formed the opinion which these Stewards did in all of the circumstances. In order for us to be persuaded of that, there is a difficult onus of proof placed on an appellant.

The Tribunal did have the benefit of the submissions from both sides, the transcript of the hearing, the opportunity of viewing the video, and also some additional fresh evidence from Mr Thompson Jnr.

Unfortunately the front on film was so indistinct that it was of no assistance to our deliberations.

It is clear from the evidence by Mr Kemp during the course of the inquiry before the Stewards that he was viewing the race from the vantage position of the Stewards' tower relatively close to where the incident occurred. Mr Kemp gave clear evidence of both ingredients to the offence, namely the fact that BUSY BLUE turned its head and also that it did make muzzle contact with the No. 2 greyhound.

The Tribunal has no alternative but to rely on this clear evidence of Mr Kemp, whereas Mr Thompson Jnr was located quite some distance away from the incident and he did not enjoy the same vantage point whilst observing the incident.

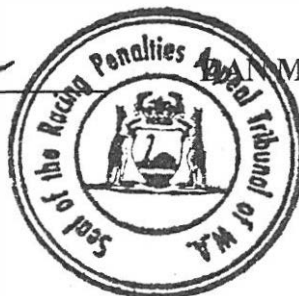
The argument raised by Mr Thompson that the No. 2 greyhound started the interference early on in the race is, in the opinion of the Tribunal, irrelevant to this particular incident.

We are satisfied that there was no error made by the Stewards. The Stewards were entitled, on the evidence, to form the opinion which they did.

The appellant has failed to establish any of the three grounds of appeal.

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

D. Mosson



MOSSONSON, CHAIRPERSON

20/6/96