

DETERMINATION AND REASONS FOR DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT: BEVERLY MICHELLE AYLING
APPLICATION NO: A30/08/347
PANEL: MR F ROBINS (PRESIDING MEMBER)
DATE OF HEARING: 20 FEBRUARY 1997

IN THE MATTER OF an appeal by Mrs B M Ayling against the determination made by Western Australian Greyhound Racing Association Stewards on 14 February 1997 imposing a three month disqualification on the greyhound *EBONY SUNSHINE* under Rule 170 of the Rules Governing Greyhound Racing in Western Australia.

Mr R Ayling was granted leave to represent the appellant.

Mr D Borovica represented the Western Australian Greyhound Racing Association Stewards.

This is an appeal brought by Mrs Ayling against the finding that her greyhound *EBONY SUNSHINE* was guilty of fighting under Rule 170 at Mandurah on 14 February 1997.

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.”*

At the Stewards' inquiry which was held shortly after the incident which occurred during Race 3, clear evidence was given by the Chief Steward, Mr Carlos Martins, as follows:

“I was at the winning post when I observed the No. 3 greyhound which is EBONY SUNSHINE turn it's (sic) head, veer in and in doing so it's made muzzle contact with the No. 8 greyhound and in my opinion the No. 3 greyhound has fought.”

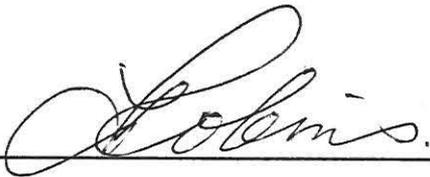
There has been no dispute in this appeal as to the two dogs coming together in the straight which is clearly seen in both the side on and head on videos. It was the opinion of the Stewards that on the evidence of Mr Martins and their own viewing of the videos, dog No. 3 turned its head in towards dog No. 8 and made muzzle contact.

The cases of Appeal No. 205, O'Keefe and Appeal No. 303 Thompson were quoted to me and I am satisfied that if I am to uphold this appeal, I would have to find that the Stewards could not have reasonably formed the opinion which they did, armed with all the relevant information and in particular, that there was no evidence as to the dog both turning its head in towards the other dog and making muzzle contact.

From my own viewing of the videos today, at normal speed and in slow motion, I have no difficulty in accepting the evidence of Mr Martins that *EBONY SUNSHINE* did turn its head in and made muzzle contact with dog No. 8 in the straight of Race 3 and there is no justification for overruling the opinion of the Stewards.

The appeal is therefore dismissed.

The fee paid on lodgement of the appeal is forfeited.



FRED ROBINS, PRESIDING MEMBER



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