

DETERMINATION AND REASONS FOR DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT: KEITH DAVIDSON
APPLICATION NO: A30/08/354
PANEL: MR J PRIOR (PRESIDING MEMBER)
DATE OF HEARING: 10 APRIL 1997
DATE OF DETERMINATION: 10 APRIL 1997

IN THE MATTER OF an appeal by Mr K Davidson against the determination made by Western Australian Greyhound Racing Association Stewards on 3 April 1997 imposing a one month disqualification of the greyhound GEORDIE'S TURN at Cannington under Rule 172(1)(a) for a breach of Rule 169(1) of the Rules Governing Greyhound Racing in Western Australia.

Mr K Davidson represented himself.

Mr D Borovica appeared for the Western Australian Greyhound Racing Association Stewards.

This is an appeal brought by Mr K Davidson against the conviction by the Stewards of the Western Australian Greyhound Racing Association after an inquiry which was held on 3 April 1997 following the running of Race 2 at Cannington Raceway on that date where Mr Davidson's greyhound *GEORDIE'S TURN* was found guilty of breaching Rule 169(1) and was disqualified for one month at Cannington Raceway only.

Rule 169(1) of the Rules Governing Greyhound Racing in Western Australia states:

"Where in the opinion of the Stewards a greyhound fails to pursue the lure in any race or qualifying trial, or mars the true running of a race or qualifying trial, the Stewards shall require that the greyhound concerned be examined by the veterinary surgeon or if no veterinary surgeon is in attendance, by a person approved by the Board to be competent, for the purpose of determining the greyhound's physical condition."

The material before the Stewards to derive their opinion on the incident comprised of the race video footage and the eyewitness accounts of the appellant and the Steward, Mr Martins. The race video footage had limited use as part of the incident was blocked from the camera by advertising signage.

The two eyewitnesses essentially conflict over whether the fact the dog's behaviour in question was still affected by a collision with another dog in the race. The Steward, Mr Martins, was of the opinion that the incident under scrutiny was well after the collision.

The Stewards were required to be satisfied on the charge on the evidence before them only on the balance of probabilities after giving some weight to the matters referred to in Briginshaw v Briginshaw (1938) 60 CLR 336.

For the Stewards to find a greyhound guilty of breaching Rule 169(1) they will only need to be satisfied in their opinion. This makes the task of an appellant to succeed on an appeal of this nature difficult. In Appeal 303, J M Thompson, the Tribunal said the following:

“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.”

I consider this comment is equally applicable to Rule 169(1) as it is to Rule 170.

From the evidence I have viewed and read, I am satisfied that there has not been demonstrated that an error was made by the Stewards. The Stewards were entitled on all the evidence to form the opinion which they did.

In those circumstances, the appeal fails.

The fee paid on lodgement of the appeal is forfeited.

John Prior

JOHN PRIOR, PRESIDING MEMBER

