

DETERMINATION AND REASONS FOR DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT: BRADLEY SCOTT SEINOR
APPLICATION NO: A30/08/377
PANEL: MR D MOSSENSON (CHAIRPERSON)
DATE OF HEARING: 31 JULY 1997
DATE OF DETERMINATION: 31 JULY 1997

IN THE MATTER OF an appeal by Mr B S Seinor against the determination made by Western Australian Trotting Association Stewards on 28 July 1997 imposing a 28 day suspension under Rule 440(a) of the Rules of Trotting.

Mr B S Seinor represented himself.

Mr B Delaney represented the Western Australian Trotting Association Stewards.

This is an appeal against the determination of the Stewards made on the 28 July 1997 in which they convicted and suspended Mr Seinor for 28 days for having caused interference by careless driving in breach of Rule 440(a) of the Rules of Trotting.

The incident occurred during the running of Race One, the Financial Service Stakes, at Pinjarra Trotting Club.

After conducting a brief inquiry into the incident the Stewards laid the charge. The specifics of the charge are:

"That racing in the front straight to receive the bell you've moved TOUCH OF FROST from the uprights towards the one wide line and as a result of that outward movement, CYCLONE JEB, which had been racing to your outside and slightly back of you has had its hind leg contacted and broke gait. "

Mr Seinor pleaded not guilty.

Further evidence was presented in defence of the charge. The Stewards subsequently deliberated and then announced that they were of the opinion that CYCLONE JEB's racing characteristics were not a factor in this incident. Further, they were of the opinion that Mr Sangalli was not attempting to hold his position, rather, he was attempting to give ground as a result of Mr Seinor's outwards movement. It is for those reasons that the Stewards found the charge was sustained.

Some further evidence was presented in relation to the penalty. Ultimately the Stewards concluded that in imposing a penalty of 28 days suspension they should not depart from the penalties which have consistently been imposed in the more recent time.

In appealing against both penalty and conviction Mr Seinor has not made it clear in the Notice of Appeal precisely the basis of his appeal. That situation was clarified at the outset of the proceedings before me when I was told that the alleged error on the part of the Stewards was their failure to take into account the actions of the other driver and the propensities of the other horse involved in the incident, CYCLONE JEB.

Mr Seinor spoke with considerable conviction as to his own innocence and invited me, by showing the video to me, to conclude that there was at least a contribution to the incident by the inaction of the driver Sangalli. I was told that Mr Sangalli was not paying attention to the inside at the point in time prior to the incident occurring. It was argued that Mr Sangalli's reaction time was far too slow. Indeed it was put as high as Mr Sangalli having been careless in all of the circumstances.

Mr Delaney, in response, has explained from the Stewards' perspective the care which must be taken by drivers in shifting position and the onus imposed on drivers to ensure that they shift position with safety.

After careful consideration of all the material which has been placed before me I have come to the conclusion Mr Seinor has not demonstrated an error on the part of the Stewards. Mr Seinor has a difficult task in persuading this Tribunal that the Stewards have erred in dealing with a matter such as this. The reason for that is the fact the Rule 440(a) in question, is couched in terms that:

"any driver who, in the opinion of the Stewards, caused or contributed to any crossing, jostling or interference by foul, careless or incompetent driving shall be deemed guilty of an offence against these Rules and may be dealt with accordingly."

It is clear that it is the opinion of the Stewards that counts and that it is not appropriate for me to form and substitute my own opinion of the incident based upon the material placed before me. In an order for an appeal of this nature to succeed I must be satisfied that no reasonable Stewards, armed with all the relevant material, could reasonably have formed the opinion of this incident which these particular Stewards did. Whilst one may have some sympathy for Mr Seinor's position and whilst, to Mr Seinor's credit he argued his case as I have already mentioned with conviction, I am not persuaded the decision of the Stewards in relation to this incident is so unreasonable that it is appropriate for me to interfere with it.

Accordingly, the appeal as to conviction fails.

In relation to the other matter, that is, the penalty Mr Seinor argues that, taking into account a number of circumstances including matters personal to himself, his record, the effect of the penalty to date and the consequence of the full suspension in view of the nature of this particular event that he has suffered sufficient suspension and that an appropriate way of dealing with the matter is to substitute a fine. Mr Delaney has pointed out that the Stewards do not impose fines for this particular offence. I am not persuaded that it is appropriate to replace the suspension penalty with a fine. Indeed I am not persuaded, bearing in mind the more recent tougher attitude of the Stewards in the imposition of penalties for offences under Rule 440(a) of the Rules of Trotting, that I should in

any way interfere with the penalty which has been imposed. In those circumstances the appeal as to the penalty also fails.

I confirm, therefore, both the conviction and the penalty.

The lodgement fee which has been paid is forfeited.

Dan Mossenson

DAN MOSSENSON , CHAIRPERSON

