

DETERMINATION AND REASONS FOR DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT: WAYNE ROSE
APPLICATION NO: A30/08/409
PANEL: MR P HOGAN (PRESIDING MEMBER)
DATE OF HEARING: 26 MARCH 1998
DATE OF DETERMINATION: 26 MARCH 1998

IN THE MATTER OF an appeal by Mr W Rose against the determination made by Western Australian Greyhound Racing Association Stewards on 7 March 1998 imposing a one month disqualification at Cannington on the greyhound WYCOMBE BOY under Rule 170 of the Rules Governing Greyhound Racing in Western Australia.

Mr W Rose represented himself.

Mr C Martins represented the Western Australian Greyhound Racing Association Stewards.

This is an appeal by Mr Rose against the finding that his greyhound WYCOMBE BOY was guilty of fighting under Rule 170 at Cannington Greyhounds on 7 March 1998.

Sometime after the conclusion of that race a short inquiry was held before the Stewards. Mr Borovica gave evidence at the inquiry. In his evidence, at page two of the transcript, is this:

"... yes Mr Chairman I was at the Stewards' position overlooking the winning post from where I observed the 3 greyhound as it came to the home turn, turn its head, veer out and make muzzle contact with the 5 greyhound on its outside and in my opinion it fought that greyhound."

Rule 170(1) of the Rules Governing Greyhound Racing in Western Australia states:

"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."

As well as that evidence from Mr Borovica, the Stewards had the video film of the race and the particular incident. Mr Rose was present at the inquiry, heard Mr Borovica's evidence and saw the video. Mr Rose was also permitted to make his comments on the video.

By way of extra evidence today, I have seen a small piece of footage of the same greyhound running in another race. I can see and I can accept that at about the same position in that other race, that the same greyhound did drift out in a similar fashion to what it did on 7 March 1998.

The definition, if there be one, of fighting is that there would have to be two elements satisfied. Those two elements are that there must be a turning of the head of the greyhound in question and then muzzle contact with another greyhound. When I say that that is a definition of fighting, I certainly do not say that that is an exhaustive definition of fighting and one could readily imagine that there would be other circumstances in which fighting can occur.

The Rule is couched in terms of "*in the opinion of the Stewards*" and in fact Rule 170(2) states:

"Any question as to what constitutes the act of fighting shall be determined by the Stewards."

In those circumstances, it appears to me that the appellant has to overcome a very heavy onus in order to overturn the decision of the Stewards. It has been said before, so long as there is some evidence upon which the Stewards could reasonably come to that opinion, this Tribunal really will not be in a position to over rule the decision of the Stewards.

In my opinion, the Stewards saw all of the relevant evidence by way of video and they heard all of the relevant evidence, in particular that of Mr Borovica. It cannot be said that there was no reasonable basis for their decision.

For those reasons, this appeal is dismissed and the fee paid on lodgement of the appeal is forfeited.

P J Hogan

PATRICK HOGAN, PRESIDING MEMBER

