

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

APPELLANT: SHERI SHEEHY
APPLICATION NO: A30/08/636
PANEL: MR D MOSSENSON (CHAIRPERSON)
DATE OF HEARING: 8 JUNE 2005
DATE OF DETERMINATION: 8 JUNE 2005

IN THE MATTER OF an appeal by Sheri Sheehy against the determination made by the Racing and Wagering Western Australia Stewards of Harness Racing on 28 May 2005 imposing 21 days suspension for breach of Rule 163(1)(a) of the Rules of Harness Racing.

Mr T Sheehy was granted leave to represent the appellant.

Mr R J Denney appeared for the Racing and Wagering Western Australia Stewards of Harness Racing.

This is an appeal in relation to a driving incident which occurred on 28 May 2005 in Race 1 at Harvey. The Stewards conducted an inquiry following the race. Drivers Helen Miller and Sheri Sheehy were called to the inquiry. Mr Denney, on behalf of the Stewards, gave evidence at the outset of the inquiry as follows:

'You had been racing closest to the rubber uprights out of the front straight on the first occasion. Miss Sheehy has initially been in the one wide line however, I was of the opinion that Miss Sheehy your horse has moved closer to the rubber uprights when not clear of Miss Miller's drive and there was contact to the front legs of

ICINGONTHECAKE and that horse raced rough and lost its, possibly its racing position or a short bit of ground. Miss Miller is there anything you could say.'

The Stewards heard evidence from the two drivers, showed the video of the race and then concluded that they should issue a charge against Mrs Sheehy under the provisions of Rule 163(1)(a) of the Rules of Harness Racing. That Rule states:

'163. Offence relating to matters during the race

(1) A driver shall not –

(a) *cause or contribute to any crossing, jostling or interference ...'*

The charge laid was one of causing interference, the specifics being *'that racing out of the front straight on the first occasion Mrs Sheehy allowed her drive to shift inwards when not clear of Miss Miller's drive and in so doing contact was made to the front legs of ICINGONTHECAKE and that horse raced roughly and lost ground'*.

Mrs Sheehy pleaded not guilty. Nothing further was added in the course of the proceedings. The Stewards adjourned to consider the matter and then concluded, taking into account the evidence and the video together with their own observations, that Mrs Sheehy shifted in prior to being clear of Miss Miller's drive. Accordingly they found Mrs Sheehy guilty as charged.

The Stewards then went on to deal with the question of the penalty. In so doing they took into account some further brief evidence and concluded that there were several matters that were relevant. One was the good driving record. Another that on the first turn in a mobile event when horses are racing at optimum speed the Stewards consider any interference to be of a serious nature. Normally an incident like this attracts a 28 day suspension, In view of the good driving record it was, however, lessened by a period of seven days. Accordingly, a penalty of 21 days suspension was imposed.

In the Notice of Appeal the grounds are specified to be:

'Crossed when clear of other runner. No interference occurred (sic) to other runner. Held true lines. Other runner in fact running up track.'

At the outset Mr Sheehy on behalf of the appellant indicated the desire to appeal both the conviction and the penalty. That course was not objected to by the Stewards.

I have had the benefit of reading the transcript, which is relatively brief, of hearing the submissions presented by Mr Sheehy on behalf of the appellant, the response by Mr Denney and in addition, some observations made by Mrs Sheehy. Further, I have viewed the video of the race.

I have come to the conclusion that on all of the material that is before me it has not been demonstrated that the Stewards fell into any error in arriving at the conclusion which they did of the incident. I am not satisfied that there was anything unreasonable in the way the Stewards determined this matter in the light of the evidence that was before them. As has been pointed out to me by Mr Denney during the course of the appeal, there are a number of passages contained within the transcript where there are admissions or acknowledgements

by the two drivers which help confirm and corroborate the conclusion which the Stewards ultimately arrived at. I therefore dismiss the appeal as to conviction.

As to the penalty it has not been demonstrated that the 21 day suspension imposed is inappropriate in all of the circumstances. Indeed, the Stewards have made an appropriate adjustment or allowance for Mrs Sheehy's good driving record. For that reason I am satisfied that the penalty should be confirmed. Accordingly, I dismiss the appeal as to penalty as well.

A suspension of operation of penalty was granted until midnight on 8 June 2005 or as otherwise ordered. In view of the decisions which I have made, the suspension of the penalty now automatically ceases to operate.



DAN MOSSENSON, CHAIRPERSON

