

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

**APPELLANT:** BRUCE STANLEY

**APPLICATION NO:** A30/08/751

**PANEL:** MR D MOSSENSON (CHAIRPERSON)

**DATE OF HEARING:** 19 DECEMBER 2012

**DATE OF DETERMINATION:** 19 DECEMBER 2012

**DATE OF REASONS:** 22 April 2013

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**IN THE MATTER OF an appeal by Mr Bruce Stanley against the determination of Racing and Wagering Western Australia Stewards of Harness Racing imposing a suspension of 17 days for breach of Rule 163(1)(b) of the Rules of Harness Racing**

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Mr B Stanley represented himself.

Mr W Delaney represented the Racing and Wagering Western Australia Stewards of Harness Racing.

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**BACKGROUND**

On 11 December 2012 the Racing and Wagering Western Australia (**RWWA**) Stewards of Harness Racing conducted an inquiry into an incident which occurred during the running of Race 4 on that day at Gloucester Park. Both Mr Stanley and Mr GE Hall Junior who drove in the race were called before the Stewards to answer questions in relation to the matter.

At the outset Steward Franklin described his observations of the race which were made from where he was positioned in the tower located close to where the incident allegedly occurred. The Steward reported on the movement of the two drivers' respective horses and the fact that Mr Hall was obliged to race three-wide whilst proceeding out of the back straight and towards the front straight. Mr Hall agreed with the Steward's description and also gave his own version of what had occurred. The video of the race was played. Mr Delaney asserted that the video confirmed the Steward's assessment of the race. Despite Mr Stanley having responded by presenting a different version of events the Stewards proceeded to issue a charge against Mr Stanley under Rule 163(1)(b). That Rule relates to offences occurring during races and makes it an offence for a driver to make another horse cover more ground than necessary. The charge was issued in the following terms:

...racing out of the back straight to receive the bell, as a result of your movement from the marker pegs to the one-wide line, resulted in Mr Hall which had covered your sulky wheel with his horse's front legs to be obliged to race wider being three-wide on the track.

Mr Stanley pleaded not guilty but was convicted and as a consequence suspended for 17 days.

Mr Stanley appealed on the basis that he did not believe that he had made another horse race three-wide out of the back straight. In arguing his case Mr Stanley asserted he was already in the one-wide lane at the relevant time and the horse in question was following him. Further, he believed he kept a straight line all the way. The horse on his outside went three-wide of its own volition and he had not forced it to go there. *"The Stewards claim I had moved, I believe I was already in that position and did not shift ground at all"*. Mr Stanley backed up his argument by referring to the video.

At the outset in his reply Mr Delaney relied on the wording of Rule 163(4) which makes it an offence when the Stewards are of the opinion that a driver has failed to comply with the requisite standards of driving during a race. This provision was obviously deliberately

worded so as to address and overcome the not uncommon situation where the opinions of an accused driver or others speaking on behalf of the driver in relation to driving incidents, conflict with that of the Stewards. The way the Rule has been drafted ensures that paramountcy in these matters is given to the Stewards' opinions. As has been stated on so many occasions previously, for an appeal in relation to this rule to succeed it does require more than simply a good argument to have been presented or some doubt to have been cast on which of the two conflicting versions or interpretations of the quality of a driving incident should be accepted. The key phrase which has been inserted in the rule in question "... in the opinion of the Stewards ...", ensures that in order for a person to succeed in such a matter, it must be shown that that the decision of the Stewards was so unreasonable that no reasonable body of Stewards, armed with all of the relevant material, could have arrived at it.

After addressing the preliminary interpretation point Mr Delaney then went on to assert that the incident in question had in fact occurred at a different place in the race from where Mr Stanley had described it had taken place. However, as Mr Delaney proceeded to develop his assertion on this point it became obvious to him that he was in error. This then led him to concede that "he got it wrong" and "Mr Stanley is right".

Clearly, as a consequence of these admissions, the decision of the Stewards was unsustainable. This proved to be one of the rare cases where it could be said that no reasonable Stewards who were armed with all of the relevant information would have arrived at a decision to convict. Consequently I upheld the appeal.

*Dan Mossenson*

DAN MOSSENSON, CHAIRPERSON

