

Appeal decision

Date: 2 July 2015

Code of racing: Harness

Appeal panel: Mr P James (chair), Mr D. Kays

Appearances: Mr K McLean appeared on behalf of Miss N McMullen.

Mr D Farquharson, Chairman of Stewards, appeared on behalf of the stewards.

Decision being appealed: Suspension of licence to drive in races for a period of 3 weeks - Rule 165.

Appeal result: Appeal dismissed.

Extract of proceedings – in the matter of the Silks Restaurant Q0 (C2+) over 2138 metres MS at Albion Park on 13 June 2015. Driver: Narissa McMullen

THE CHAIRMAN: Miss McMullen has been charged that from the start through to the first turn and until reaching the next straight - and the rule states:

“ (a) A driver shall maintain with the inside wheel of the sulky a course which is at least 30 centimetres wider on the track than the course being made good by the outside wheel of the sulky of the horse that is racing in the next position closer to the inside running rail.

(b) Not to move the driver’s horse towards the inside running line unless the rear of the driver’s sulky is at least 1 metre clear of the extended front legs of the horse racing in the next position closer to the inside running lane.”

The stewards were of the view that when you have moved your horse, Ona Happy Note, in from a position wider on the track down in advance of Shareapassion, driven by Peter McMullen, you have done so with insufficient clearance, and the specifications are set out in Rule 165, and as a result of that have tightened the racing room of Peter McMullen’s horse, which galloped.

We have read the transcript and viewed the film and also listened to the helpful submissions from both Mr McLean and the stewards. We do agree with the stewards that Miss McMullen

has contravened the tolerances as provided in Rule 165(a)(b), and are therefore of the view that this has contributed to the horse driven by Peter McMullen, namely Shareapassion, galloping in restricted room.

We are also of the view that offences occurring coming up to or on the first turn are viewed seriously as they can result in significant danger to both horses and drivers and can result in falls. That didn't happen in this particular case but Mr McMullen had to take - was leaning right back in the sulky and had to do all he could to stop the horse and it did gallop.

The normal minimum penalty for this offence where it occurred is a period of 3 weeks suspension of driving licence. We do not see the suspension of licence for this offence of 3 weeks is manifestly excessive, bearing in mind where the interference occurred, namely leading up to the first turn.

So we do not propose to alter the penalty, and therefore we rule that the appeal against conviction and penalty be dismissed.

Further right of appeal information: The appellant and the stewards may appeal to the Queensland Civil and Administrative Tribunal(QCAT) within **14 days of the date of this decision**. Information in relation to appeals to QCAT may be obtained by telephone on (07) 3247 3302 or via the Internet at www.qcat.qld.gov.au