

DETERMINATION AND REASONS FOR DETERMINATION OF THE
RACING PENALTIES APPEAL TRIBUNAL

APPELLANT : EDWARD MONTGOMERY
APPLICATION NO. : A30/08/130
PANEL : MR D MOSSENSON (CHAIRMAN)
MR F ROBINS (MEMBER)
MS P HOGAN (MEMBER)
DATE OF HEARING : 11 AUGUST 1993

IN THE MATTER OF an application by Edward Montgomery for leave to appeal against the determination of the Western Australian Turf Club Committee on the 21st April 1993 against the withdrawal of Trainer's Licence under Local Rule 41.

Mr T F Percy, on instructions from Jackson McDonald, Solicitors, appeared for Mr Montgomery

Mr R J Davies QC, appeared for the WA Turf Club.

This is an application for leave to appeal made by a person who has been licensed to train horses since 1984.

In March 1993, cannabis was found in Mr Montgomery's caravan and he was subsequently charged with possession of cannabis under the Misuse of Drugs Act. On 24 March 1993, Mr Montgomery pleaded guilty to the charge.

At a meeting of the Western Australian Turf Club Committee held on 20 April 1993, upon the recommendation of the Stewards, the Committee withdrew Mr Montgomery's trainer's licence pursuant to Local Rule 41, which states:

"The Committee may refuse to grant any such licence or permit and may at any time cancel or revoke the same before the termination of the period for which it has been granted without giving any reason".

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Mr Montgomery was unaware that the Committee was considering revoking his licence at that meeting. He was not invited to attend or address the meeting and was only informed of it by a letter dated 21 April 1993.

The Committee's decision to revoke the applicant's licence to train prevented him from pursuing his livelihood. In the circumstances, the Tribunal is satisfied that the Committee must comply with the rules of natural justice when considering the refusal or cancellation of a person's licence to train horses. As the applicant was not aware of the Committee's deliberations or decision until after he received the letter of advice of the outcome of the Committee meeting, he was denied natural justice in that he was given no opportunity to be heard and had no opportunity to refute the adverse allegations against him.

For these reasons the Tribunal considers that this is an appropriate case to grant leave to appeal.

The Tribunal upholds the appeal and declares the decision of the Committee, which was made on 20 April 1993, to be void.

The fee that was paid on the lodgement of the appeal will be refunded.

Dan Mossenson

DAN MOSSENSON, CHAIRMAN

