

DETERMINATION AND REASONS FOR DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT : GERARD O'KEEFE
APPLICATION NO. : A30/08/205
PANEL : MR D MOSSENSON (CHAIRPERSON)
MR T MULLIGAN (MEMBER)
MR L ROBBINS (MEMBER)
DATE OF HEARING : 6 JULY 1994

IN THE MATTER OF an appeal by Mr Gerard O'Keefe against the determination of the Western Australian Greyhound Racing Association Stewards on 18 June 1994 imposing a one month suspension of SANDI'S BEST under Rule 170.

Rule 170 states:

- "(1) 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.
- (2) Any question as to what constitutes the act of fighting shall be determined by the Stewards."

At a hearing before the Stewards it was found that Mr O'Keefe's greyhound SANDI'S BEST:

"... did fight, did make muzzle contact in the home straight and accordingly, we've found it guilty under Rule 170 and suspended it for one month at Carrington only."

The Rules governing greyhound racing contain no definition of the act of fighting which is something which is to be determined by the Stewards.

Early in 1991 the Stewards met and agreed that when a greyhound attempts to attack "another greyhound and actually makes contact with its muzzle on any part of the body of the greyhound, it will be deemed to have fought. If there is any doubt in the Stewards' opinion that the greyhound fought, the greyhound would always get the benefit of the doubt."

Since then the Stewards authorised the General Manager of Greyhound Racing to inform the public through "Kennel Notes" issued on the 23 June 1994 "What Fighting Means". For the purpose of clarifying confusion amongst the greyhound fraternity the following was published:

"Where in the opinion of the Stewards a greyhound has turned its head and made muzzle contact with another greyhound."

This clarification was a repeat of the statement that was published in the "Kennel Notes" of 7 April 1994.

In other words, the Stewards have since 1991, always recognised that two elements are required in order to constitute the act of fighting. The Stewards do require the formation of an opinion that the greyhound both turned its head and made muzzle contact.

There was no reference to the first element in the evidence that was presented or in the decision and the findings of the Stewards when they considered this matter on the 18 June 1994 at their inquiry.

In those circumstances it cannot be said that there was justification for a finding that the greyhound had fought.

The appeal is therefore upheld and the suspension is quashed.

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

The Tribunal directs that the conviction recorded against SANDI'S BEST be expunged from the relevant records.

Dan Mossenson

DAN MOSSENSON, CHAIRPERSON

