

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

APPELLANT : NOEL JOHN KEILEY

APPLICATION NO. : A30/08/271

PANEL : MR D MOSSENSON (CHAIRPERSON)
MS J PRIOR (MEMBER)
MR F ROBINS (MEMBER)

DATE OF HEARING : 11 OCTOBER 1995

IN THE MATTER OF an appeal by Mr N Keiley against the decision of the Western Australian Trotting Association Stewards on 19 September 1995 imposing a 12 month disqualification pursuant to Rule 497(1) of the Rules of Trotting.

Rule 497(1) states:

" When any horse which has been presented to race is found to have had administered to it a drug:

(a) any person who administered the drug to the horse;

(b) the trainer; and

(c) any other person who was in charge of the horse at any relevant time,

is deemed to have committed an offence."

The appellant pleaded guilty to a charge of breach of rule 497(1)(a)(b) of the Rules of Trotting and appeals against the severity of the penalty of a twelve month disqualification which was imposed. Rule 55(A) imposes a minimum penalty of a twelve month disqualification for a first offender unless the Stewards having regard the extenuating circumstances under which the offence was committed decide otherwise.

The appellant, who is a first offender, provided the Stewards with details of matters mitigating the penalty. The Stewards found that there were no extenuating circumstances that would justify a lesser penalty than a twelve month disqualification.

The Tribunal is not persuaded that the Stewards erred in failing to find that anything the appellant placed before them constituted extenuating circumstances. The penalty imposed was the minimum penalty unless the appellant was able to persuade the Stewards to the contrary.

The appellant being a licensed trainer has agreed to be bound by the Rules of Trotting and this consequently includes the penalties applicable for breaches of Part 42 under Rule 55(A). In those circumstances the Tribunal confirms the penalty that was imposed and dismisses the appeal.

The lodgement fee is forfeited.

Dan Mossenson



DAN MOSSENSON, CHAIRPERSON

18/10/1995