

DETERMINATION AND REASONS FOR DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT: TROY MORRISSEY
APPLICATION NO: A30/08/348
PANEL: MR D MOSSENSON (CHAIRPERSON)
DATE OF HEARING: 27 FEBRUARY 1997
DATE OF DETERMINATION: 27 FEBRUARY 1997

IN THE MATTER OF an appeal by Mr T Morrissey against the determination made by Western Australian Turf Club Stewards on 22 February 1997 imposing a 19 day suspension under Rule 137(a) of the Australian Rules of Racing.

Mr J Inglis was granted leave to represent the appellant.

Mr P Criddle represented the Western Australian Turf Club Stewards.

Mr Morrissey challenges the decision of the Stewards convicting him of a breach of the Rules of Racing which occurred during the running of Race 2 the Ipoh Handicap conducted on the 22 February 1997. The Stewards charged Mr Morrissey with careless riding in breach of Australian Racing Rule 137(a). The particulars of the charge were:

"... you allowed your mount SIMPLY ELATED to shift in and crowd RARE MYSTERY which was buffeted and ..., has ground taken at that particular stage of the race being the 900m mark, ..."

Rule 137(a) states:

"Any rider may be punished, if in the opinion of the Stewards:

(a) He is guilty of careless, improper, incompetent or foul riding ..."

Mr Inglis put forward the proposition that there has been a travesty of justice in that the evidence which the Stewards relied upon was inconclusive and insufficient. I have had the benefit of reading the transcript of the inquiry and of viewing the film of the race, both head on and side on, in addition to hearing the submissions from Mr Inglis, on the one hand, and Mr Criddle and Mr Zucal, on the other.

I am satisfied that there has been nothing like a travesty of justice. Rather the Stewards have properly conducted this inquiry and have given Mr Morrissey every fair and reasonable opportunity to present evidence in the proceedings and to answer the charge which was laid against him.

As Mr Criddle has pointed out, the Stewards have not simply made their determination on the basis only of the film which was viewed during the course of the inquiry. They obviously were present during the running of the race and from different vantage points, observed the incident. Mr Carvosso gave evidence before the inquiry of his observations. That evidence is not the only material which was relied upon by the Stewards in determining to charge and subsequently convict Mr Morrissey. Mr Maker, the rider of RARE MYSTERY, gave evidence of the incident as well. Mr Maker stated:

"... I was outside Mr Sestich, just getting, moving along, starting to get travelling nice, then I just ran out of room, sir. The one in front of me just took the ground."

When further questioned by the Chairman at the Stewards' inquiry as to how much ground it had cost, Mr Maker stated:

"A couple of lengths, sir. A length or something like that."

In order for an appeal to be successful, in relation to this particular rule, it must be demonstrated on behalf of an appellant that there has been error on the part of the Stewards. The rule in question is prefaced with the words "*in the opinion of the Stewards*". That therefore means that it is not appropriate for me simply to substitute my opinion of the incident for that of the Stewards. In order for an appeal to be successful I must be satisfied that no reasonable Stewards, armed with all the relevant facts and aware of all the material circumstances, could reasonably have reached the conclusion or come to the opinion which these Stewards did in the particular matter.

Nothing has been said to me and I haven't been shown anything which leaves me to conclude that the Stewards have erred in reaching the opinion which they did of the incident. If anything, from my observation of the race from watching the video, I am satisfied that the Stewards were entitled to reach the opinion which they did of it from the head on video of the race, without even the benefit of the additional evidence.

In those circumstances the appeal fails and is dismissed.

The order which was made on 24 February 1997 directing the suspension of the operation of the penalty automatically ceases to operate.

The fee paid on lodgement of the appeal is forfeited.



DAN MOSSENSON, CHAIRPERSON

