

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

APPELLANT: MARK JOHN SIMPSON
APPLICATION NO: A30/08/508
PANEL: MR J PRIOR (PRESIDING MEMBER)
DATE OF HEARING 26 JULY 2000
DATE OF DETERMINATION: 26 JULY 2000

IN THE MATTER OF an appeal by Mr M J Simpson against the determination made by the Stewards of the Western Australian Greyhound Racing Authority on 7 June 2000 imposing a fine of \$300 for breach of Rule AR109(15) of the Rules of Greyhound Racing.

The Appellant represented himself.

Mr D Borovica appeared for the Western Australian Greyhound Racing Authority Stewards.

This is an appeal by Mr M Simpson, a public trainer, in relation to a conviction for breach of Rule AR109(15) of the Rules of Greyhound Racing and an appeal against the penalty of a \$300 fine imposed.

Rule 109 reads:

"Any person (including an official) who:

...
(15) *has, in relation to a greyhound or greyhound racing, done a thing, or omitted to do a thing, which, in the opinion of the stewards, is negligent, dishonest, corrupt, fraudulent or improper, or constitutes misconduct;*

...
shall be guilty of an offence and liable to a penalty pursuant to rule 111."

After conducting an inquiry into the matter the Stewards charged Mr Simpson with a breach of this particular Rule as follows:

"The specifics of the charge is that the non-appearance of the greyhound ALANA LOUISE for the race meeting conducted at Mandurah on the 3rd April 2000 was due to the fact that you, Mr Simpson gave incorrect information when making application under AR6 to withdraw the greyhound, which in the opinion of the stewards constituted negligence."

At the resumption of the inquiry Mr Simpson pleaded not guilty to the charge but was convicted. The Stewards gave detailed reasons for the conviction.

The essential facts in this matter were that on 31 March 2000 Mr Simpson rang the Stewards and applied verbally to scratch a greyhound that was nominated for a race on 3 April 2000 at Mandurah. He claimed he gave specific details of the greyhound ALANA LOUISE to a female officer. That officer, Mrs Norquay, the Stewards' secretary, gave evidence that the details given by Mr Simpson did not correspond with the greyhound ALANA LOUISE as claimed by Mr Simpson, but in fact corresponded to another greyhound trained by Mr Simpson, JANI HAVOC.

Essentially this inquiry became a matter of credibility there being no dispute that what Mr Simpson was doing, if correct details were given by him in the telephone call to the Stewards, would comply with Rule AR6(1).

The Stewards were left with a question as to whose evidence they preferred, that of Mrs Norquay or that of Mr Simpson. In addition to such verbal evidence, Mrs Norquay's handwritten note and her completed scratching certificate being exhibits 3 and 4 in the inquiry corroborated Mrs Norquay's evidence. In addition to this, there were also some implied concessions by Mr Simpson during the Stewards' inquiry that he may have made some mistakes in giving the greyhound's details of the greyhound that he had intended to scratch.

Having considered all this, it is hardly surprising that the Stewards preferred the evidence of Mrs Norquay. It was the only conclusion a reasonable person could have come to. The Stewards having accepted Mrs Norquay's evidence and the other corroborating evidence could only have been satisfied on the balance of probability that the charge had been proved.

Rule AR109(15) governs a wide variety of conduct. I am satisfied that the specifics of this charge can be covered by this rule. I am further satisfied that failure by a trainer to give correct information when making an application under Rule AR6(1) can constitute negligence under Rule 109(15).

What happened after Mr Simpson made his application by telephone to scratch a greyhound under Rule AR6(1) is irrelevant. The reasons for conviction reflect the specifics of the charge.

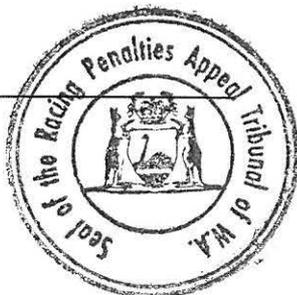
In those circumstances it has not been demonstrated the Stewards fell into error in convicting the Appellant.

As to penalty, no error has been demonstrated in the Stewards imposing a fine of \$300.

There is no tariff for this type of offence. The penalty imposed is right towards the lower end of the scale for penalties available under Rule AR111 and clearly demonstrates that the Stewards dealt with the matter on the basis that Mr Simpson had made an honest mistake.

For these reasons the appeal against both conviction and penalty is dismissed.

John Prior



JOHN PRIOR, PRESIDING MEMBER