

DETERMINATION AND REASONS FOR DETERMINATION OF  
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT: VERNA TOWNSEND  
APPLICATION NO: A30/08/530  
PANEL: MR P HOGAN (PRESIDING MEMBER)  
DATE OF HEARING 6 JUNE 2001  
DATE OF DETERMINATION: 6 JUNE 2001

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IN THE MATTER OF an appeal by Verna Townsend against the determination made by the Stewards of the Western Australian Greyhound Racing Authority on 11 May 2001 imposing a 28 day suspension of LIKA TIGER at Mandurah for breach of Rule AR80(2) of the Rules of Greyhound Racing.

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The appellant represented herself.

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

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This is an appeal by Mrs Verna Townsend, a part owner of the greyhound LIKA TIGER.

LIKA TIGER ran in Race 1 at Mandurah Greyhounds on 11 May 2001. Following the running of the race, the Stewards received a report that LIKA TIGER had failed to pursue the lure with due commitment on the home turn.

As a result, the Stewards inquired into whether LIKA TIGER should be suspended under Rule AR80(2) of the Rules of Greyhound Racing. Mrs Townsend attended the Stewards' inquiry.

At the Stewards' inquiry Stipendiary Steward, Mr Borovica gave his observations of the incident on the home turn as follows:

*"I was stationed in the Steward's position overlooking the winning post from where I observed the 8 greyhound as it raced approaching the home turn, ease, veer out and collide with the 6 greyhound as it carried that greyhound and the two outside the 6 quite some distance outside and in doing that I didn't think that it was pursuing the lure with due commitment."*

The Chairman of Stewards, Mr Searle then stated:

*"Now we'll just read into the record the greyhound has been vetted and it has been stood down for ten days, it's got a sore left butt, hamstring and back muscle."*

Mrs Townsend responded as follows:

*“Well it was gaining momentum again and it was probably with the injury run wide.”*

The Chairman announced their finding in the following terms:

*“The Stewards have taken all the evidence into account, including the injury, and after deliberation have formed the opinion that the greyhound LIKA TIGER has failed to pursue the lure with due commitment by reason of injury for the second time and found the greyhound guilty under AR80(2). As the greyhound already has an endorsement under AR82(1)(c) for failing to pursue the lure with due commitment by reason of injury by virtue of AR82(2) the greyhound has been suspended under AR81 for a period of 28 days.”*

The relevant Rules in this matter are:

*“AR80*

*Where a greyhound, in the opinion of the stewards:*

*...*

*(2) fails to pursue the lure with due commitment in an event;*

*the stewards may, except in the case where the greyhound is found to have been injured pursuant to rule 82, impose a period of suspension in respect of the greyhound pursuant to rule 81 or 82 as the case may be.*

*AR81*

*The period of suspension imposed by a steward under rule 80 shall be:*

*(1) in the case of a first offence, at the track where the offence occurred, 28 days and until the completion of a satisfactory trial ...*

*AR82*

*(1) (a) Where a greyhound fails to pursue the lure as provided under rule 80(2), the greyhound shall be examined by the officiating veterinary surgeon or authorised person.*

*...*

*(c) Where a greyhound is found to be suffering from an injury upon an examination pursuant to rule 82(1)(a), a certificate shall be produced to the stewards by the veterinary surgeon or authorised person detailing the injury and the period of incapacitation imposed in accordance with rule 87. The stewards shall endorse the greyhound’s certificate of registration accordingly to show that the greyhound failed to pursue the lure, by reason of injury.*

*...*

*(2) Where a greyhound is found to be in breach of rule 80(2) for a second or subsequent time, the provisions of rule 82(1)(c) shall not apply, unless the endorsement has been cancelled pursuant to rule 84(2).*

## AR83

*Where a greyhound is found by the stewards to have engaged in fighting or has failed to pursue the lure with due commitment during an event the stewards shall, subject to rule 82(1)(c), endorse the certificate of registration of the greyhound with the particulars of the offence.*

## AR84

- (1) Where the certificate of registration of a greyhound contains 1 endorsement under rule 83 or 82(1)(c) for fighting or failing to pursue the lure with due commitment and that greyhound competes in not less than 10 events, excluding a course, without again having its certificate of registration endorsed for a similar offence, the Board/Commission may, upon application by the owner or trainer of the greyhound, cancel the endorsement. Only 1 application may be made pursuant to this rule in respect of each greyhound.*
- (2) Where the Board/Commission cancels an endorsement pursuant to rule 84(1) the Board/Commission shall, upon the certificate of registration of the greyhound concerned being produced to the Board/Commission, cause 'Cancelled' to be stamped across the endorsement."*

The following issues are not dispute:

- the certificate of registration of LIKA TIGER was endorsed on 6 March 2001 at Mandurah Greyhounds pursuant to Rule AR82(1)(c) for failing to pursue the lure by reason of injury;
- the endorsement has not been cancelled pursuant to Rule 84(2); and
- LIKA TIGER was found to be injured on examination following the running of the race the subject of this appeal at Mandurah Greyhounds on 11 May 2001.

The only issue to be determined is whether the Stewards had reasonable grounds for their opinion that LIKA TIGER did not pursue the lure with due commitment in the running of the race, as it raced approaching the home turn. Although the Stewards found, as part of their decision, that the failure to pursue was because of injury, that finding was not necessary for the conviction.

The relevant Rule, AR80(2), is one which depends upon the opinion of the Stewards. As has been said on a number of occasions:

*"In order for this Tribunal to interfere with a determination made in respect of a Rule which specifies 'in the opinion of the Stewards', it has to be satisfied that no reasonable Stewards, armed with all the relevant information, could reasonably have formed the opinion which these Stewards did, in all of the circumstances."*

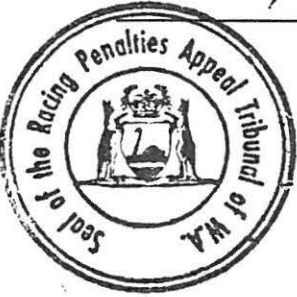
In this case, I am not persuaded that the Stewards erred. In evidence today at this appeal, I saw the race film. Clearly, LIKA TIGER veered out as described by the Steward at the hearing at Mandurah on 11 May 2001. The veering out was for a sufficient time to constitute the offence of failing to pursue. A portion of the race is all that is required as a time frame in which the offence can be committed.

It is no answer to the charge that the dog went on to pursue, as demonstrated by it going on to beat two other runners. The offence had already occurred by then.

For these reasons, the appeal was dismissed.



PATRICK HOGAN PRESIDING MEMBER



THE RACING PENALTIES APPEAL TRIBUNAL

REASONS FOR DETERMINATION OF  
MR D MOSSENSON (CHAIRPERSON)

APPELLANT: HECTOR MCLAREN

APPLICATION NO: A30/08/529

PANEL: MR D MOSSENSON (CHAIRPERSON)  
MR P HOGAN (MEMBER)  
MR A MONISSE (MEMBER)

DATE OF HEARING: 17 JULY 2001

DATE OF DETERMINATION: 17 JULY 2001

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IN THE MATTER OF an appeal by Hector McLaren against the determination made by the Stewards of the Western Australian Turf Club on 22 May 2001 imposing a six month disqualification for breach of Rule 178 of the Australian Rules of Racing.

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Mr M J McCusker QC, assisted by Ms B Lonsdale, instructed by Dwyer Durack, appeared for the appellant.

Mr RJ Davies QC appeared for the Stewards of the Western Australian Turf Club.

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I have read the draft reasons of Mr P Hogan, Member. I agree with the reasons and conclusions and have nothing to add.



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DAN MOSSENSON, CHAIRPERSON



THE RACING PENALTIES APPEAL TRIBUNAL

REASONS FOR DETERMINATION OF  
MR A MONISSE (MEMBER)

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*A E Monisse*

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ANDREW MONISSE, MEMBER

