

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

APPELLANT: BARRY THOMPSON
APPLICATION NO: A30/08/623
PANEL: MR P HOGAN (PRESIDING MEMBER)
DATE OF HEARING: 20 OCTOBER 2004
DATE OF DETERMINATION: 20 OCTOBER 2004

IN THE MATTER OF an appeal by Mr B Thompson against the determination made by the Racing and Wagering Western Australia Stewards of Greyhound Racing on 7 October 2004 imposing a 28 day suspension at Mandurah of the greyhound MISS TINKERBELLE for breach of Rule AR80(2) of the Rules of Greyhound Racing.

The Appellant represented himself.

Mr M Kemp appeared for the Racing and Wagering Western Australia Stewards of Greyhound Racing.

Following the running of race 2 at Mandurah on 7 October 2004 the Stewards conducted an inquiry into the running of MISS TINKERBELLE. Stipendiary Steward, Mr Goold, at page one of the Stewards' transcript (T1) stated:

'... I was positioned at the 530 tower when I observed the race and in my opinion I observed the 5 dog um ... check the 2 dog on the home turn after this the dog eased in the homestraight veered out and inconvenienced the 5 in the homestraight. In my opinion it was not pursuing the lure with due commitment.'

The race patrol film was shown on several occasions and Mr Thompson gave his version of the incidents. In addition, the greyhound was vetted after the race and at T3, the Chairman stated:

'Ok I'll just report ... for the record that we've received a report from the vet and upon examination after competing in race 2, number 2, the greyhound MISS TINKERBELL (sic) was found to be injured as follows and he's put there no apparent injury and zero ... and no stand down period, signed by Dr Thomas so I'll just record that for the record.'

The Chairman of the inquiry announced at T4 the decision to convict the greyhound:

'Right Mr Thompson, the Stewards have completed their deliberations uh ... it's quite obvious to us that the 2 greyhound was failing to pursue the lure as described by Mr Goold we don't agree with your assertion that the number 5 greyhound was some ... some how responsible for the interference. The 5 greyhound was simply pursuing the lure in a normal manner however, it was being inconvenienced due to the 2 greyhound veering out onto it we have therefore formed the opinion that MISS TINKERBELL (sic) has failed to pursue the lure with due commitment and in accordance ... and has therefore breached Rule AR80 part 2 and accordingly has been suspended for twenty eight days at Mandurah only and placed on a field satisfactory trial ...'

Australian Rule of Greyhound Racing AR80 states:

'AR80. Fighting – failing to pursue

Where a greyhound, in the opinion of the stewards:

- (1) fights with any other greyhound during an event; or*
- (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.'

The ground of appeal is:

'The Steward (sic) erred in thier (sic) decision and consequently the conviction and penalty should not stand.'

The witnesses were:

Mr B Thompson	Public Trainer
Mr N Goold	Stipendiary steward

In this appeal, I heard from Mr Thompson and saw the video of the race. Mr Kemp made submissions and produced a plan of the track. The Rule is couched in terms of 'in the opinion of the Stewards'. This phrase has been the subject of determinations on previous occasions. In both the case of THOMPSON (Appeal 303) and ROWE (Appeal 412) the Tribunal commented on the importance of that phrase. The same interpretation and same approach must be adopted in this particular case as it was in those earlier appeals.

Mr Thompson in his submissions pointed out that Mr Goold, had said to him before the Stewards' inquiry that the incident he observed was a fighting rather than a failing to pursue. As it transpired, the charge laid was one of failing to pursue, rather than fighting. In my opinion, there is no importance to be attached to this comment by Mr Goold. Nothing had been formalised in terms of what charge was to be laid, until the commencement of the inquiry. Following that, the Stewards watched the video and heard the evidence, in the normal fashion.

Based on all of the information which is before me, including the transcript and the video, I am satisfied that it was open to the Stewards to form the opinion which they did of the incident in question. In all of the circumstances I am satisfied that it has not been demonstrated that the Stewards were in error in coming to the conclusion which they did in relation to the evidence that was before the inquiry. The video clearly showed that MISS TINKERBELLE did move up the track towards the 5 greyhound in the home straight inconveniencing that greyhound for a short distance. Mr Goold, who was in the best position to view the incident, had stated at the inquiry that:

'In my opinion it was not pursuing the lure with due commitment.'

For these reasons the appeal is dismissed.

P. J. Hogan

PATRICK HOGAN, PRESIDING MEMBER

