

RACING PENALTIES APPEAL TRIBUNAL DETERMINATION

APPELLANT: MR DAVID CLEMENT HOBBY

APPLICATION NO: A30/08/813

PANEL: MR P HOGAN (ACTING CHAIRPERSON)

DATE OF HEARING: 15 MAY 2018

DATE OF DETERMINATION: 28 MAY 2018

IN THE MATTER OF an appeal by DAVID HOBBY against a determination made by the Racing and Wagering Western Australia Stewards of Greyhound Racing on 8 May 2018, finding that the greyhound Bart Monelli marred another greyhound during an event and suspending Bart Monelli for 28 days and placing it on a field satisfactory trial for breach of Rule 69 of the Racing and Wagering Western Australia Rules of Greyhound Racing.

Mr DC Hobby appeared in person.

Mr C Martins represented the Racing and Wagering Western Australia Stewards of Greyhound Racing.

Introduction

1. The Appellant is the trainer of the greyhound BART MONELLI. He appeals against a finding that BART MONELLI marred another greyhound during the running of Race 4 at Mandurah Greyhounds on 27th April 2018. No appeal is made against the penalty.
2. Rule 69 of the Rules of Greyhound Racing reads:

“Marring

Where, in the opinion of the Stewards, a greyhound is found to have marred another

greyhound during an Event, the Stewards shall Impose a period of suspension in respect of the greyhound pursuant to sub-rule (2), and the specifics shall be recorded in the relevant Controlling Body Register, or where applicable, the Certificate of Registration or Weight Card of the greyhound.”

3. Marring is defined in Rule 1:

“mar or marring means the act of a greyhound which turns the head and makes head or muzzle contact with another greyhound.”

The inquiry

4. The Stewards' inquiry was held and concluded on the night of the Race. Evidence was given by Steward Mr Kaitse who watched the race. The 2 race replays were also played. Mr Kaitse said:

“Yes Mr Martins. I, I was stationed on the home turn for that particular race when I observed the 'five' greyhound, veering out and deliberately turning its head and making muzzle contact with the 'seven' greyhound approaching the finishing line. This constitutes the act of marring under Rule 69 Mr Martins.”

5. In finding the charge proved, The Chairman of the inquiry said:

“In our opinion, the video footage, both side and head-on footage does corroborate the evidence of Mr Kaitse and we have therefore formed the view that BART, BART MONELLI did turns its head deliberately and did make muzzle contact with ALL THE RAVE, accordingly under rule 69 the greyhound will be suspended for 28 days and placed on a field satisfactory trial.”

Grounds of appeal

6. The grounds of appeal are as follows:

“The Greyhound BART MONELLI No5 Race 4 did not make head/muzzle contact with the 7 greyhound.”

Disposition of the appeal

7. At the inquiry, and here on the appeal, Mr Hobby argued that the greyhound's action did not constitute marring. He said:

“But I mean he's starting to drift out there as you can see, he's even in his action, the whole lot and I mean it was, that's, that's, if that's marring and we're going to ping every dog for It,

well we're in deep trouble in this state."

and:

"No, look I just think it's, you know like realistically this is on the milder side of more a warning than anything else, you know what I mean. And I've seen a lot of dogs do are far, far worse than this in my time get warnings."

8. Mr Hobby also put forward that the marring was not deliberate:

"No I disagree that it was a deliberate act and I just wondered if he was watching the 'five' or watching the 'eight' or, what, who was he watching, there was a couple of incidents going on in the race, I mean I would have probably been more watching the 'eight' if I was standing on the home turn, so yes I sort of totally disagree with his observations."

9. Mr Hobby also pointed out that the dog was inexperienced, and had recently lost a kilo in weight, and had never had a dog pass him before.

10. At the hearing of this appeal, Mr Hobby repeated the submissions that he had made at the inquiry. He also made the point that he had 43 years' experience in the industry, and has rarely disputed the findings of the Stewards. Mr Hobby also pointed out that there was a 10 minute delay between the end of the race and the time at which he was told there would be an inquiry into marring. This apparently lends support to Mr Hobby's view that the action was on the "milder" side.

11. I have viewed the two race replays. They corroborate the evidence of Mr Kaitse. There is no factual dispute. There is no error in the Steward's fact finding.

12. What is in dispute between the Stewards and Mr Hobby is whether the dog's action was sufficient to amount to marring. That is a matter for the opinion of the Stewards. I accept that Mr Hobby has many years of experience in the industry, but for the purposes of inquiry and appeal his opinion cannot override that of the Stewards.

13. For this single reason, the appeal is dismissed.



PATRICK HOGAN, ACTING CHAIRPERSON

