

Appeal decision

Date: 25 September 2013

Code of racing: Harness

Appeal panel: Judge W Carter (chair), Mr P James and Mr D Kays.

Appearances: Mr S Neaves, barrister, appeared on behalf of driver Narissa McMullen.
Miss K Wolsey, stipendiary steward, assisted by Mr L Wilson, stipendiary steward, appeared on behalf of the stewards.

Decision being appealed: Suspension of driver Narissa McMullen's licence to drive for a period of two weeks – AR168(1).

Appeal result: Appeal dismissed. Penalty varied to an eight-meeting suspension, to commence midnight 28 September.

Extract of proceedings – in the matter of Race 7, the Rio Meteor Sulky at Garrard's Pace (C2-C3) over 1660 metres at Albion Park on 10 September 2013. Driver: Narissa McMullen

THE CHAIRMAN: My colleagues and I have considered the matter and the issues which have been so well put by both sides and we are indebted to you, Mr Neaves, and you Miss Wolsey for your assistance. We too have had the advantage of a comprehensive assessment of the film, and we are well acquainted with the submissions from the appellant and from the respondent.

We have considered all of those matters and we are of the view that the tightening which gave rise to Mr Barnes' drive breaking gait was caused by the driving of Miss McMullen, and that she was the cause of the tightening when moving down. We are not persuaded that the other circumstances which have been advanced were causative in any relative sense and we are of the view that the immediate cause of what occurred was the fault of, on this occasion, Miss McMullen.

Accordingly, we would dismiss the appeal.

We have also considered the question of penalty. This is not the occasion for us to deal at any length with the matters which we discussed here this morning, and again I thank both Mr Neaves and Miss Wolsey for their help.

We think that in the circumstances of this case – and we are satisfied that this is not the worst case of its kind – we are of the view that an appropriate penalty would be a suspension for a period of eight meetings, from midnight, Saturday the 28th.

Would that allow Miss McMullen to meet her commitments this week – all of them?

MR NEAVES: That's so.

THE CHAIRMAN: All right. Okay. Well, thank you very much again for your help. We will adjourn the matter now. Thank you very much.

MR NEAVES: Thank you.

MISS WOLSEY: Thank you very much.

THE CHAIRMAN: Thank you.

Further right of appeal information: The appellant and the stewards may appeal to the Queensland Civil and Administrative Tribunal (QCAT) within **14 days of the date of this decision**. Information in relation to appeals to QCAT may be obtained by telephone on (07) 3247 3302 or via the Internet at www.qcat.qld.gov.au