

TASMANIAN RACING APPEAL BOARD

Appeal No 18 of 2013/14

Panel:	Mr T Cox (Chair)	Appellant:	Mr N Ford
Adviser:	Mr D Arnott		
Appearances:	The appellant in person Mr M Hoyle on behalf of stewards	Rule:	Australian Harness Rule AR163(1)(a)
Heard at:	Hobart	Penalty:	A 3 race date suspension
Date:	30 July 2013	Result:	Dismissed

REASONS FOR DECISION

1. The appellant, Mr Ford, was the driver of *Mister Ryanjack* which raced in race 5 over 2200 metres at the Launceston Pacing Club on 13 July 2014. Following an inquiry into his drive stewards charged Mr Ford with a breach of AR163(1)(a), which states:

“A driver shall not – cause or contribute to any crossing, jostling or interference”

2. The stewards’ race day report from that meeting stated that: *“Driver Nathan Ford (Mister Ryanjack) was found guilty of a charge under AR163(1)(a) for causing interference in that racing out of the home straight on the final occasion after racing in a four wide position after initially breaking due to contacting the sulky of Livia Degerolstein, he commenced to jostle with Precious Dragon (Erin Hollaway) who was racing in a three wide position, resulting in Miss Hollaway having to relinquish her position in the three wide line, take hold of her horse and restrain behind Mister Ryanjack. In arriving at penalty, stewards took into account Mr Ford’s not guilty plea and also his recent record under this rule. Mr Ford’s licence to drive in races was suspended for a period of three race dates commencing midnight 14th July 2014 and expiring midnight 27th July 2014.”*

3. It is apparent from the footage, and not in dispute between the parties, that on racing down the home straight for the final time the appellant’s drive was checked resulting in the appellant finding himself four wide approaching the turn. At the time the appellant’s drive was checked, Miss Hollaway, on *Precious Dragon*, was immediately behind the appellant’s drive. From this point, it can be seen that Miss Hollaway moved her drive up behind *Livia Degerolstein* taking a position to the inside of the appellant’s drive. The appellant, at this point, was four wide at the back of the field. A position he, no doubt, had not anticipated or sought to find himself in. His choices from here were three fold: he could ease his drive behind Miss Hollaway’s drive and take a position at the back of the field; he could maintain his position, an option that was unattractive; or he could move forward around the field.

4. The appellant took none of these options, preferring instead to jostle with Miss Hollaway’s drive in an attempt to regain the three wide position behind *Livia Degerolstein*. The footage clearly demonstrates that the appellant applied pressure to Miss Hollaway’s drive on two occasions over at least half a dozen strides. On the first occasion, Miss Hollaway sought to maintain her position and resisted. On the second occasion, the appellant was marginally in front of Miss Hollaway. The pressure he exerted from this position put Miss Hollaway at risk that the appellant’s sulky would contact her drive’s legs. She relinquished the position, eased her drive back and took a position behind *Mister Ryanjack*. She had no choice but to do so.

5. The appellant contended that he would not have done what he did but for the fact he was checked and that Miss Hollaway may have given up the position in light of the fact the appellant was checked. Although he conceded she had no obligation to do so he considered it possible she would allow him to regain the position he enjoyed before his drive was checked. He also added that it was not an option to stay in the four wide position and, tactically, it would have been unwise to advance. He provided no cogent reason for why he could not and should not have eased in behind Miss Hollaway.

6. The appellant's contentions provide an explanation for why he took the option he did, but in no way do they excuse him from the charge of causing interference. Miss Hollaway had the running line in the three wide position. The appellant tried not once, but twice, to force her from that position. She had no choice but to relinquish the position as a result of the pressure the appellant applied. If she did not, there was a risk of her drive falling.

7. Having regard to the above matters, I am comfortably satisfied that the appellant was in breach of AR163(1)(a) in the manner alleged by the stewards.

8. As far as penalty is concerned, I am not satisfied that the stewards erred in imposing the penalty that they did. The appellant has an appalling record for breaches of this type. He has been suspended or reprimanded on 49 occasions for like offences. There was a risk that Miss Hollaway and/or her drive could have been injured as a result of the course the appellant adopted. It was clearly a penalty within the normal and expected range for this type of conduct.

9. For these reasons, the appeal is dismissed.

10. Pursuant to s34(2)(e) of the *Racing Regulation Act 2004*, 50% of the prescribed deposit is to be forfeited to the Secretary of the Department and the appellant is to pay the Secretary of the Department 50% of the costs incurred in preparation of the transcript.

11. Pursuant to s.34(1)(B) the decision is to take effect immediately.