

TASMANIAN RACING APPEAL BOARD

Appeal No 10 of 2018/19

Panel:	Tom Cox (Chair) Kate Brown (Deputy Chair) Wendy Kennedy (Member)	Appellant:	Taylor Ford
Appearances:	Anthony O'Connell (on behalf of the Appellant) Roger Brown (on behalf of the Stewards)	Rules:	AHRR 231 (1)(e)
Heard at:	1 Franklin Wharf HOBART	Penalty:	4 months disqualification
Date:	8 February 2019	Result:	Appeal upheld

REASONS FOR DECISION

1. This appeal concerns an incident that occurred at the conclusion of a Stewards Inquiry in the Stewards room at the Tasmanian Pacing Club race meeting at Elwick Race Course on 9 November 2018. At the conclusion of the inquiry - in which the appellant was disqualified for a period of 2 months - she got up from her chair, walked a few paces from it towards the door and then picked up an almost half full 600ml water bottle from the table she had just been seated at and threw it in a backhand motion at the Chairman of Stewards, Mr Crowther, who was standing on the other side of the table. The water bottle struck Mr Crowther's hand as he attempted to fend it off and then landed on the ground.
2. There was some debate before this Board as to the manner in which the appellant threw, or perhaps more accurately, "flicked" the bottle, but, in our view, nothing turns on this. The simple facts of this case appear to be that Miss Ford intentionally picked up the bottle and with modest force sent it flying in Mr Crowther's direction.
3. A further inquiry was convened at which the following charge was levied:

"...when leaving the Stewards' room after a decision has been handed down on the 9th of November 2018 you have picked up a drink bottle with your right hand and thrown it in a backhand motion towards the Chairman of Stewards."
4. The appellant admitted she was in breach of 231 (1)(e) of the Australian Harness Racing Rules, which provides as follows:

“A person shall not assault anyone employed, engaged or participating in the harness racing industry or otherwise having a connection with it”

5. Despite accepting her admission and acknowledging her personal circumstances, the Stewards proceeded to disqualify the appellant for a period of 4 months.
6. The appellant has appealed against the severity of the penalty imposed by the Stewards.
7. Having regard to the factual findings above and our further reasons below, the appeal must be upheld.
8. The appellant’s conduct amounts to an assault at common law. Her conduct can best be described as impulsive and petulant. The incident occurred in a split second and we do not find that there were any aggravating circumstances such as Miss Ford looking at Mr Crowther before throwing the bottle or doing anything that would have instilled in Mr Crowther’s mind that he was in danger of any serious harm.
9. Although we have found that she intentionally threw the water bottle, we accept her representative’s submission that it was not done with the intent of causing Mr Crowther any serious harm. It was simply offensive conduct that was unwarranted.
10. The appellant admitted she was in breach of the rule. The conduct was, as noted, impulsive and petulant. Nevertheless, it could not be said on an objective basis that Mr Crowther was at risk of serious harm. The force used was modest. The weight of the bottle slight and the respective positions of the appellant and Mr Crowther did not suggest that the offensive conduct was likely to continue. Indeed, a table separated the pair and the appellant was leaving the room.
11. The conduct was clearly unacceptable, but we do not consider it to have been of a particularly serious nature. It was the conduct of an impulsive and petulant young woman aimed towards a grown man in a position of authority. Having said that, we accept the Stewards submission that conduct of this sort must not occur in the workplace and that the Stewards should be protected from conduct of this sort; and, further, that their decisions and authority should be respected. The penalty must reflect those considerations.
12. The appellant has already served 25 days of her period of disqualification. In our view, on the relevant facts, that is sufficient penalty for her conduct.
13. The appeal is upheld, the Stewards’ order is quashed and we substitute their order for an order that the appellant be disqualified for a period of 25 days. Her deposit will be returned.