

TASMANIAN RACING APPEAL BOARD

Appeal No 23 of 2015/16 – GARETH RATTRAY

Panel:	Mr Tom Cox	Appellant:	Mr Gareth Rattray
Adviser:	Mr David Arnott		
Appearances:	Mr Barrie Rattray on behalf of the appellant Mr Adrian Crowther on behalf of the stewards	Rules:	Harness Rule AR163(1)(a)
Heard at:	Launceston	Penalty:	A two race meeting suspension
Date:	14 June 2016	Result:	Upheld

REASONS FOR DECISION

1. The appellant, Mr Gareth Rattray, has appealed against the conviction and penalty imposed upon him by stewards following an inquiry during which he pleaded not guilty to a charge under rule 163(1)(a) of the Australian Harness Racing Rules.
2. At the time the appellant was the driver of *Iden Amrak* which raced in race 7 over 2200 metres at the Launceston Pacing Club on 29 May 2016.
3. AR163(1)(a), provides as follows:

“A driver shall not – cause or contribute to any crossing, jostling or interference”
4. The stewards’ race day report from that meeting stated that: *“KARALTA STARDUST – tightened and broke gait over the concluding stages. Gareth Rattray, driver of IDEN AMRAK, was found guilty of a charge of causing interference. The particulars being that he shifted up the track and tightened the running of KARALTA STARDUST resulting in that filly breaking gait. Mr Rattray had his licence to drive in races suspended for a period of 2 race dates to commence at midnight on 6 June 2016 and expire at midnight on 12 June 2016.”*
5. The Board has viewed the patrol film of the race, considered the transcript of the inquiry and heard from the appellant. The incident occurred in the late stages of the race at a time when the appellant was one off the pegs trailing slightly behind Mr Hill’s drive to his inside and slightly in front of Mr Walters’ drive to the appellant’s outside. It is also important to note that to the outside of Mr Walters’ drive, Mr Yole, on *Soho Shanghai*, was advancing and, as he did, descending the track.
6. It was common ground between the appellant and the stewards that pressure was applied by both Mr Hill on the inside and Mr Yole on the far outside. It can be seen quite clearly in the footage that Mr Hill moved off the pegs causing Mr Rattray to move to his outside and into a position where the wheels of his sulky are inside the wheels of Mr Walters’ sulky. It can also be seen that before that occurs Mr Yole moved around Mr Walters’ drive and down the track as he passes Mr Walters. In the course of Mr Yole’s move and before Mr Hill moves off the pegs, Mr Walters can be seen restraining his drive in an attempt to move back and out of a gap that

was quickly tightening. Before Mr Walters was able to extract his drive, it breaks gait and drops back in the field.

7. Mr Barrie Rattray, on behalf of the appellant, submitted the following:
 - a. The appellant was dictated to by Mr Hill on his inside.
 - b. The appellant did not steer his drive up the track. Indeed, he was not driving the horse at the time Mr Hill moved and, after he did, the appellant steered his drive back down the track when there was sufficient room to do so.
 - c. There was evidence at the stewards' inquiry from Mr Walters to say that the interference in question was caused by Mr Yole to the outside and Mr Hill to the inside, not Mr Rattray.
 - d. Mr Hill was in contravention of the ease out rule which states: "*A driver can ease out passing the "candy pole" located in the back straight providing he/she does not cause interference, as determined by Stewards, to another runner when doing so.*"
8. Mr Crowther, on behalf of the stewards, submitted the following:
 - a. The appellant was dictated to by Mr Hill at first but then continued to move up the track causing the interference.
 - b. While Mr Yole and Mr Hill may have contributed to the tightening of the horses it was the appellant's "second move" up the track that caused or contributed to the interference with Mr Walters' drive.
9. In a straight forward case as this the Board has to be comfortably satisfied that the appellant's conduct, by act or omission, contributed to the interference with Mr Walters' drive. Whilst it may be said that the movement of Mr Rattray's horse was a factor in the interference the Board is not comfortably satisfied that he should have done more or refrained from doing any particular act at a point in time when the horse on the outside, driven by Mr Yole, and the horse on the inside, driven by Mr Hill, appear to have brought considerable pressure to bear on both Mr Walters' drive and indeed the appellant's drive.
10. The appellant was bound to move up the track when Mr Hill moved off the pegs. The appellant's position meant that he was required to move up the track and, in turn, so too was Mr Walters. There were not two distinct moves by the appellant. He moved up the track after Mr Hill moved off the pegs. After the appellant moved up the track a gap between his and Mr Hill's drive appeared and the appellant corrected his drive as soon as possible back down the track. However, by that time Mr Walters' drive had broken gait as he attempted to retreat from the tightening gap caused by Mr Yole's move to his outside.
11. The appeal is upheld. The stewards' decision of 29 May 2016 is quashed.
12. The Board orders that the appellant have his deposit returned to him pursuant to Section 34(2) of the *Racing Regulation Act 2004*. The appeal having been successful the Board makes no order as to transcription costs.