

## Appeal decision

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**Date:** 15 December 2014

**Code of racing:** Harness

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**Appeal panel:** Mr B Miller (chair), Mr D Kays and Mr P James.

**Appearances:** Mr N Scott appeared on behalf of driver Madison Dux.  
Mr L Wilson, deputy chief steward, appeared on behalf of the stewards.

**Decision being appealed:** Suspension of licence to drive in races for a period of eight weeks – AR149(1).

**Appeal result:** Appeal dismissed. Penalty varied.

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**Extract of proceedings – in the matter of the Rio Meteor Sulky Available at Garrards Pace (C4-C5) over 1660 metres at Albion Park on 21 November 2014. Driver: Madison Dux**

THE CHAIRMAN: Madison Dux was the driver of Lynchman, which raced at Albion Park on Friday, 21 November, and the tactic she adopted aboard the horse were, in the opinion of the stewards, inadequate in that, in their opinion, she failed to take all reasonable and permissible measures to ensure that the horse obtained the best possible placing in the race under Rule 149(1).

We have heard significant evidence as to the form of the horse, the manner in which it has been driven, and we have seen five videos, including the video in question on 21 November. There is no doubt that the performance of the horse in all races is such that it does not perform overly well and is classified as a claiming horse, as Mr Scott suggested, and its form has been very poor. However, on the night in question there is no doubt that the horse really didn't seem to work too hard in the run and the stewards took exception to the fact that at or about the 350-metre mark the driver failed to take what they believed was a necessary step in that she did not move outside the horse in front of her, driven by a driver Dixon.

That horse had been losing ground from about the 550-metre mark and at the time at or about the 250-metre mark just prior to entering the straight an opportunity did arise which Miss Dux failed to take in that she failed to drive to the outside. Had she done so there seems, in the opinion of this tribunal, no doubt that she would have finished in a position closer to that than which she did achieve.

The real problem that this tribunal has found is that there could well be excuses for Miss Dux in that she obeyed the instructions of her father, and, more importantly, that she is what can be described as an inexperienced driver. She has had a licence for approximately 13 months at this point in time, but for reasons best known to the stewards she was granted an

A-grade driver's licence. As such, she had obviously shown to the stewards that she had the ability to perform in all circumstances as would an A-grade driver. That carries with it significant responsibilities.

The fact that she therefore failed to show initiative raises in the minds of the members of this panel that she has failed to comply with the rule in question because had she had taken the outside running there would certainly have been a satisfactory response from the stewards, regardless of whether she had won or been placed in the race. She would have driven in the race on the basis of complying with the rule and satisfying stewards' requirements that as an A-grade driver she showed her competence and her initiative. She failed to do so. Therefore, in our opinion, the conviction must stand and the appeal is dismissed in respect thereto.

Having said that, the panel is surprised that she has in fact an A-grade driver's licence. She is, as we have said, an inexperienced driver, although she has driven more than 200 races and had a significant number of wins. For that reason we believe that the penalty imposed is something that shouldn't stand. She is obviously a person who is going to go places in the industry.

The panel believes the stewards should have been more lenient and, in the circumstances, we believe that a penalty of four weeks would have been appropriate and we substitute that penalty for the decision that had been imposed by the stewards. That is the determination of this panel.

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](http://www.qcat.qld.gov.au)