

Appeal decision

Date: 16 December 2013

Code of racing: Thoroughbred

Appeal panel: Mr B Miller (chair), Mr P James and Mr N Thomson.

Appearances: Jockey Dale Evans appeared on his own behalf.
Mr L Collins, stipendiary steward, appeared on behalf of the stewards.

Decision being appealed: Suspension of licence to ride in races for a period of two months – AR135(a).

Appeal result: Appeal dismissed. Penalty reduced.

Extract of proceedings - in the matter of the Stockland Rockhampton BM 60 Handicap over 1600 metres at Rockhampton on 5 November 2013. Jockey: Dale Evans

THE CHAIRMAN: The tribunal has considered all of the evidence that has been put before it and that which has been contained in the transcript of proceedings.

The issues are quite clear, in our view, namely that on 5 November jockey Evans, aboard Wooden Eye Joe, in the last 100 metres did have the opportunity to take a run between the two horses immediately to the front of it but elected not to do so. He did that he says because of the instruction firstly given to him by trainer O'Sullivan both at Emerald the start prior and at the time prior to this race, and from his own knowledge of the horse that Wooden Eye Joe did not like to race in close or confined and needed room to perform at its best. There is no doubt that what jockey Evans did was to comply as best he could see with the circumstances and the demands and regulations that the trainer reposed in him.

Interestingly, the gap between the two horses was, in the opinion of this tribunal, sufficiently wide that jockey Evans should have explained and exhibited initiative in taking the run rather than attempting to persevere with allowing the horse to get to the outside. In our view, he has failed in his duty as a senior rider to comply with the obligations reposed in him by the Rules of Racing.

It is for that reason, and that reason alone, that this tribunal has determined that the appeal in respect to the determination of the stewards made that he failed to take all reasonable and permissible measures under Rule 135(a) should be dismissed.

On the issue of penalty, the tribunal has determined and found that the ride itself did not show a complete lack of vigour, and it was not one which to the stewards' minds should have identified that here was a man who was intent on not allowing the horse to perform to its best. He was trying, he said, to allow the horse to find its feet, get to the outside and thereafter perform as he knew it possibly could.

The horse did improve in the latter stages of the race, and it ran into a place that perhaps could have been improved upon. Interestingly, previous decisions of the Racing Appeals Tribunal and QCAT have identified a range of penalty dependent upon the particular circumstances that range being from some four weeks imposition of penalty by way of suspension up to three months. There is no suggestion here that jockey Evans failed or intended to stop the horse from winning. It was an error on his part in that he failed to take advantage of a run that presented itself.

For that reason we believe that the penalty imposed by the stewards is too high, and we allow the appeal in respect to penalty and reduce the suspension to a period of four weeks.

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