



INTERNAL REVIEW DECISION
(Internal Review Decision Notice in response to an Application for Internal Review)

PART 1: Details of Internal Review

Internal Review Number: Internal Review 0010-19

Applicant's Name: Ben Woodsford

PART 2: Decision History

Original Decision: Breach of Rule 149(2) of the Australian Harness Racing Rules

Original Decision Makers: D Farquharson, P Kennedy, N Torpey, G Goold

Date of Original Decision: 6 February 2019

Internal Review Decision: Original decision on penalty confirmed – Four (4) week suspension

Internal Adjudicator: Kane Ashby – Queensland Racing Integrity Commission

Date of Internal Review Decision: 7 March 2019

PART 3: Summary of Internal Review Application

The Applicant, Mr Ben Woodsford, driver of HOT DOGMA in Race 7 at Redcliffe Harness Club on 6 February 2019, was found guilty under Australian Harness Racing Rule 149(2).

Australian Harness Racing Rule 149(2) states:

"A person shall not drive in a manner which in the opinion of the Stewards is unacceptable."

At the stewards' inquiry conducted on 6 February 2019, the Applicant was found guilty of a charge pursuant to Australian Harness Racing Rule 149(2) with the specifics of the charge that the Applicant by placing undue pressure on Hot Dogma for an extended period which in the Steward's view was the main contributing factor to the gelding tiring and being uncompetitive in the race. The Applicant pleaded guilty to the charge and his driver's licence was suspended for a period of 4 weeks.

The Stewards directed the term of suspension commence Saturday Midnight 9th of February 2019.

The Applicant sought a review on penalty only and provided the following in support of his application:

"1. At Redcliffe on Wednesday 6 February 2019 the stewards panel; Chaired by Chief Steward, Mr David Farquharson, issued a charge against me "under rule 149(2) for driving in a unacceptable manner by placing undue pressure on Hot Dogma for an extended period which in the Stewards view was the main contributing factor to the gelding tiring and being uncompetitive in the race" 'and suspended my driving licence for 4 weeks

2. I am a concession driver having contested approximately 250 races over a three (3) year period



3. *I have limited driving experience and even less experience in attending and participating at Stewards inquiries of a serious nature*
4. *At the inquiry, I requested that my employer Mr Grant Dixon a highly successful, experienced senior driver be present to support and assist me at the inquiry as I am a concession driver*
5. *Mr Farquharson denied my request without explanation*
6. *Had Mr Dixon been allowed to be present I would have presented my explanation and defence in a more understanding manner particularly the issues I have raised below in this review application.*
7. *The stewards report states that it was their view that the "main contributing factor the gelding tiring and being uncompetitive in the race" was the undue pressure placed on Hot Dogma*
8. *The stewards report also states that "a subsequent veterinary examination failed to reveal any abnormalities other than a slow post-race recovery indicative of a hard run"*
9. *I am advised by experienced trainers that a horse with slow-pace recovery can be attributed to medical factors other than "indicative of a hard run"*
10. *The stewards report states that "Hot Dogma commenced to yield ground from the winning post with a lap remaining and finished a distant last beaten in excess of 100m"*
11. *This performance is not indicative of a horse being placed under undue pressure for an extended period early in the race.*
12. *Most likely the performance was the result of some other medical influence on the night*
13. *Victoria Harness Racing have acknowledged such by introducing thorough and timely post-race endoscopic examinations of horses that perform below expectations to identify any abnormalities and check horses airways to provide immediate feedback*
14. *I believe that the performance of Hot Dogma was so disappointing and uncompetitive that if I had only contested the lead for about 200m, a similar performance by the horse would have occurred.*
15. *The winner "The Muse" endured identical pressure for the first 500 metres but was able to hold off all challengers and win the race.*
16. *The derision by stewards that the 'main contributing factor' was the undue pressure, is questionable and unlikely that this was the "main" reason for the poor performance*
17. *The trainer of Hot Dogma, Mr Ross Fletcher advised me that the horse goes best in front and that there was not much speed underneath me and go forward and see where you end up*
18. *Being a concessions driver I am keen to obtain as many drives as possible from outside scabies and aware that complying with driving instructions of trainers is of paramount to obtaining and retaining drives.*
19. *I am a base level, low income earner employed by Mr Dixon and supplement my weekly income by obtaining race drives*



20. *The loss of income from driving for 4 weeks will impact on my living standard and restrict my opportunity to gain further drives from outside stables*

SUMMARY

I was not permitted assistance at a steward inquiry

I attempted to follow driving instructions

The horse performed below its standard

The performance was excessively poor for a horse with no identifiable abnormalities

A thorough veterinary examination was not conducted

The stewards based the charge and penalty on their "main contributing factor" which is questionable as no thorough and timely veterinary examination was performed

Is too severe a penalty given these circumstances"

The outcome sought by the Applicant was for the penalty to be reduced.

PART 4: Reasons for Internal Review Decision

The Applicant, driver of HOT DOGMA, was subjected to a stewards' inquiry following the running of Race 7 at Redcliffe on 6 February 2019. The stewards, in summary, allege the Applicant placed undue pressure on HOT DOGMA for an extended period which was the main contributing factor to the horse tiring and being uncompetitive in the race. A subsequent post-race veterinary examination of HOT DOGMA failed to reveal any abnormalities other than a slow post-race recovery indicative of a hard run.

The betting data on the subject race demonstrated HOT DOGMA started at \$34.00.

Subsequent to the stewards inquiry conducted on 6 February 2019, the Applicant pleaded guilty to the aforementioned charge. The review is only on penalty.

The Applicant's complete review submissions are outlined in Part 3 of this Decision.

The Applicant, in summary submitted "*I was not permitted assistance at a steward's inquiry. I attempted to follow driving instructions. The horse performed below its standard. The performance was excessively poor for a horse with no identifiable abnormalities. A thorough veterinary examination was not conducted. The stewards based the charge and penalty on their 'main contributing factor which is questionable as no thorough and timely veterinary examination was performed. Is too severe penalty given the circumstances.*" The Applicant sought a "reduction in penalty".¹

Subsequent to viewing the race footage, the reviewer finds that the Applicant, driver of HOT DOGMA, commenced from the three wide position on the front row and was driven aggressively with the whip in the early stages of the race to challenge THE MUSE for the early lead. The Applicant was unable to cross THE MUSE and subsequently withdrew the challenge and positioned HOT DOGMA in the death seat approaching the home turn on first occasion. The Applicant remained in such position before placing HOT DOGMA under pressure and with a lap to run and HOT DOGMA

¹ Internal review application dated 10 February 2019.



commenced to yield considerable ground from that stage of the race to be beaten 101.4m from eventual winner THE MUSE.

The reviewer finds the post-race veterinary examination of HOT DOGMA failed to reveal any abnormalities other than a slow post-race recovery indicative of a hard run, and in the absence of any further veterinary evidence is not satisfied the horses performances was attributed to any other abnormality.

Australian Harness Racing Rule 182 is a discretionary power placed upon stewards when determining representation at a steward's inquiry.

For clarity Australian Harness Racing Rule 182 reads:

"At an inquiry conducted under these rules -

(a) a person or body is not entitled to have a representative present in the room or place where the inquiry is being conducted but the Stewards may permit a representative to be present and to take such part in the inquiry as they consider appropriate;

(b) a person under the age of 18 may be represented by an agent or parent;

(c) a person with an English language disability may be assisted by an interpreter;

(d) a club or other body may be represented by a member or official;

(e) where scientific, medical or veterinary questions arise a person affected may have present an adviser in such a field to hear evidence and to assist in the framing of questions and submissions and at the discretion of the Stewards to question a witness;

(f) written or oral evidence may be tendered;

(g) a written or oral opinion on legal, scientific, medical or veterinary matters may be tendered in evidence;

(h) unless the Stewards permit, a legal practitioner cannot represent or assist a person, club or other body pursuant to paragraph (b), paragraph (c), or paragraph (d) of this rule."

The reviewer acknowledges the Applicant has a responsibility to follow instructions where possible, however when circumstances arise during the course of a race that is detrimental to the horse's chances, the Applicant is required to consider the circumstances and make decisions that benefit the interests of the horse.

The reviewer, in considering the evidence including the Applicant's submissions and taking into account the aforementioned factors, in particular the context of the race, finds the Applicant's actions in applying unnecessary pressure for the lead for an extended period was unacceptable in the circumstances and accordingly finds the charge proven.

The Applicant's disciplinary history is clear of any previous offence pursuant to Australian Harness Racing Rule 149 (2). The standard penalty for an offence pursuant to the aforementioned rule is in the vicinity of a four (4) week suspension.

The reviewer acknowledges that racing is a sport that survives on wagering and notes the importance that confidence in the product is paramount to ensure punters and connections can bet with confidence and obtain a fair run for their money.



In weighing up the matter of penalty, consideration was provided to the Applicant's actions, experience, submissions, guilty plea, disciplinary history and penalty precedents. Taking into account the aforementioned factors, the reviewer finds the penalty is consistent with the standard penalty for such offence and is not satisfied a reduction in penalty is proven in the circumstances and accordingly confirms the original decision on charge and penalty.

PART 5: Review Rights following Internal Review Decision

In accordance with section 246 of the *Racing Integrity Act 2016*, as the applicant for an internal review of the original decision, you are able to apply to the Queensland Civil and Administrative Tribunal (QCAT) for an external review of the internal review decision.

An external review is commenced by lodging the appropriate forms with QCAT. In accordance with section 33 of the *Queensland Civil and Administrative Tribunal Act 2009*, an application for an external review of an internal review decision is to be made within 28 days from the day this internal review decision notice is provided to the applicant.

For further information regarding the processes for an external review of the decision, please contact QCAT:

Queensland Civil and Administrative Tribunal

Registry Location: Level 9, 259 Queen Street, BRISBANE QLD 4001
Postal Address: GPO Box 1639, BRISBANE QLD 4001
Phone: 1300 753 228
Email: enquiries@qcat.qld.gov.au