

Appeal decision

Hearing date: 10 December 2015

Decision date: 10 December 2015

Code of racing: Greyhound

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

Appearances: Mr D. Isles appeared on behalf of trainer Mr J. White.
Mr N. Torpey, Integrity Regulatory Unit Manager, appeared on behalf of the stewards.

Decision being appealed: Disqualification for a period of 6 months – GR106(1)(d).

Appeal result: Dismissed. Penalty varied to a suspension of time already served.

Extract of proceedings—in the matter of the circumstances regarding an injury to the tail of greyhound Outa Change: Trainer J. White

THE CHAIRMAN: John White is the trainer of greyhounds located in the Bundaberg district. On the day in question he was preparing one of the greyhounds in the bullring of his premises when the dog caught its tail in the running rail of the lure and had part of the tail severed such as the end part was hanging by a thread after the accident. The incident was in no way the fault of Mr White, and as a result of his knowledge with animals and his use of medications he believed that the tail part would by necessity have to be severed and he did so.

He effectively acted in what he believed to be the best interests of the greyhound in question. The stewards of Racing Queensland on being advised of the issues arranged for an investigation to be undertaken of his premises and of the dog, and a statement noted as Exhibit 1 by Miss R. McCrae identified the basis on which the investigation was undertaken. It is quite apparent that during the course of the investigation the dog in question some four days later was still in some form of pain, to what extent it is not certain.

However, Mr Martin Lenz, a veterinary surgeon employed in respect to the thoroughbred industry in Queensland, was contacted and his view was that the appropriate course of action should be that the greyhound be reviewed by a veterinary surgeon in the area to see if any additional treatment was required. Mr White immediately took that animal to Sylvia

Cross, who is the Veterinary Officer in Bundaberg who treats greyhounds and looks after the trainers and also, we understand, the Racing Queensland stewards.

She gave a response to a query mentioned to her by Mr Norm Torpey, Chief Steward undertaking the investigation or inquiry. When Mr Torpey asked, "Based on your examination do you believe that the greyhound should have received veterinary attention earlier than it did?" She replied, "The state of the tail with slight swelling and pain on the tip suggests that it would have been wiser to seek veterinary attention earlier", even though John White had been caring for and keeping the wound on the tail clean. The view of the stewards of Racing Queensland was that Mr White breached that duty of care under Rule 106(d), and also under the provisions of the Animal Welfare Protection Act. As a result they charged him with an offence, and during the course of the inquiry he entered a plea of guilty.

The issue in the initial stages of this inquiry is whether or not that plea of guilty was entered to the offence under Rule 106 or whether he was admitting that he had failed to take the dog to a vet earlier than the date upon which he did.

It is the view of this Board that his plea of guilty was to the latter, namely that he did not take the dog to the vet immediately the incident occurred, and he explained why he did not do so because of his experience in the industry and his association with greyhounds and sheep with respect to tail injuries. He was comfortable in his own right and in his own mind that the treatment that he had provided by the use of an iodine spray was the correct way in which to treat this particular incident and injury.

His representative, Mr Isles, provided this Board with photographic evidence of a tail injury to another greyhound, and it became quite apparent from even a cursory glance that the iodine spray had a marked effect of a positive nature in that respect, and it was on that basis that Mr White acted accordingly.

The question of guilt is therefore something that need not concern this Board. We accept the fact that he acted in the best interests of the dog, that he did so out of the experience that he had in the industry, and we know from the evidence that he has had no previous convictions.

It may constitute the fact that he has sustained or committed a technical offence, and in that regard one must give credence to what Mr Torpey has said. He suffered the imposition of a disqualification and a 6 months loss of licence. In our view, the determination should have been that he suffer a suspension rather than a disqualification, and it is unfortunate that he has been put to the issue of having to now be ostracised from the greyhound industry for a period of more than one month.

The determination of this Board is that the disqualification be withdrawn, that the penalty be a suspension, such suspension to be time already served to today. He is entitled to resume his training capacity as from this date.

Further right of appeal information: The Appellant and the Steward may appeal to the Queensland Civil and Administrative Tribunal (QCAT) within **28 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