

**RACING APPEALS  
TRIBUNAL  
NEW SOUTH WALES**

**TRIBUNAL MR E SELWYN OAM  
ASSESSOR MR W ELLIS**

**DECISION**

**MONDAY 23 JULY 2018**

**APPELLANT WILL RIXON**

**AUSTRALIAN HARNESS RACING RULE  
163(1)(a)**

**DECISIONS: 1. Appeal upheld  
2. Appeal deposit refunded**

This is an appeal by Will Rixon against a decision by the stewards that he, on 22 June 2018, at Bankstown, breached AHRR Rule 163. This rule says:

“A driver shall not –

(a) cause or contribute to any interference.”

The evidence relied upon by the respondent consisted of the transcript of the stewards' inquiry. Mr Adams, the Chief of Stewards, who appeared for the respondent, asked the Tribunal to note that one page of the transcript had been incorrectly transcribed to identify a person who was not the speaker and he also asked could a very small section of the respondent's submissions be amended. He also tendered a horse history, or race history, of the horse Matai Valour NZ.

Mr Adams called two stewards to give evidence in this hearing: Mr Westwood, who was in a tower on the day in question at Bankstown, and Mr Bentley, who was the Chief Steward at Bankstown on the day. Mr Westwood gave evidence from his own observations in the tower and highlighted events from the showing of the video. Mr Westwood based his opinion on the events, basically, on his own observation of the race. Mr Bentley was not able to see the salient event from his position at Bankstown, but his opinion was formed and his evidence was based on his observation of the video of the race and subsequently consulting with the stewards at the end of the race.

Both stewards confirmed their opinion before the Tribunal today that the appellant did not make sufficient effort to prevent his runner, Its All Bliss, from coming down the track and placing Mrs McGill's drive, Matai Valour NZ, in insufficient room.

The appellant had a fellow driver, Mr David Morris, act as his McKenzie friend and he, the appellant, did not give evidence before the Tribunal today.

This appeal is a de novo hearing and the Tribunal must satisfy itself, after hearing all the evidence, that the opinion formed by the stewards is a reasonable one. The Tribunal is able to exercise its own discretion in these matters and is not required to follow the stewards' decision.

The appellant's case consisted primarily of submissions made by Mr David Morris, who also cross-examined the respondent's witnesses. He also endeavoured to establish from the history tendered that Mrs Magill's horse, Matai Valour NZ, had previously broken stride without any actions from another source, be it horse or driver. The Tribunal has in the past recorded that in matters such as this there must be, or should be, some sort of blameworthiness attached to the driver of the horse who is alleged to have breached the rules. And in this instance the Tribunal cannot determine

whether any blameworthiness attaches to the appellant, Mr Rixon, and consequently what follows is that it is the view of the Tribunal that the opinion of the stewards held in this case was not reasonably held.

Therefore, the appeal is upheld and the deposit is returned.

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