

Appeal decision

Hearing date: 9 September 2015

Decision date: 9 September 2015

Code of racing: Thoroughbred

Appeal panel: Mr B. Miller (chair), Mr P. James and Mr G. Casey.

Appearances: Mr M. Tutt, solicitor, appeared on behalf of jockey Bogenhuber. Mr P. Gillard, stipendiary steward, appeared on behalf of the stewards.

Decision being appealed: Suspension of licence to ride in races for a period of covered by 8 meetings – AR137(a).

Appeal result: Dismissed. Penalty varied to a severe reprimand.

Extract of proceedings—in the matter of the Club Manager’s Association of Australia QTIS three year old Fillies Maiden Plate over 900 metres at the Gold Coast on 8 August 2015: Jockey S. Bogenhuber

THE CHAIRMAN: We have considered the matters both Mr Gillard and Mr Tutt have put before us. It is obvious there are circumstances in which green horses were involved. There are fresh starters, new starters, young jockeys. The rail, as Mr Tutt said, was out nine metres, and Mr Gillard, for the stewards, identified that that should have absolutely no bearing whatever, however the experience of seeing something of that nature immediately makes turns tighter, makes distances shorter in respect to rounding turns and it takes away the advantage that would have been there for a horse ridden by Miss Bogenhuber who, as we have seen in the film, has come from an outside barrier, has come across and there is no doubt that in doing so she has ridden the horse out. She then seems to stop riding when she believes she is clear by whatever margin, and that is the issue today. The question is: is she clear by two lengths or is she clear by slightly less? We are uncertain in that regard, as we would say. There is a prospect of what Mr Gillard said is quite correct, that she is about $1\frac{3}{4}$ lengths.

While there is not a great deal of difference between $1\frac{3}{4}$ and two lengths, the benefit of that doubt, in the opinion of this Board, should therefore go to Miss Bogenhuber. However, she does dictate to jockey Brooker, and our view is that the charge was properly levelled, but the question of penalty is something that has concerned us and worries us. We accept that Miss

Bogenhuber is a senior jockey, but be that as it may she has taken steps to look around. She has tried to be careful in moving across from her position, and her evidence to a large degree is supported by Tiffany Brooker, who identifies that her horse was racing greenly. It got on heels and was shifting in, which was a contributing factor.

Mr Gillard of course, on behalf of the stewards, identifies that there was interference to three horses. Frankly, we had difficulty identifying that three horses were involved but we accept that the horse on the rails was certainly inconvenienced and it did, as the evidence set out, struck the running rail. Whether that was a combination of factors or whether it was solely attributable to Miss Bogenhuber is not something that this Board is prepared to determine.

In our view, it is not a matter that is warranting eight meetings, and, in fact, it is a matter that does not warrant, in our opinion, a suspension at all. We impose a severe reprimand on that basis and we dismiss the appeal so far as conviction is concerned and uphold the appeal in respect to penalty.

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