

RACING APPEALS TRIBUNAL

RAT 22/2017

DATE OF HEARING: FRIDAY 28 JULY 2017

TRIBUNAL: **PRESIDENT:** MR T ANDERSON QC

**MR M SANTORO, DEPUTY CHAIRMAN OF STEWARDS,
THOROUGHBRED RACING SA LTD**

APPELLANT: MS R CLARK

REPRESENTATIVE MR DES O'KEEFFE

IN THE MATTER of an Appeal by **MS RAQUEL CLARK** against a decision of Thoroughbred Racing SA Ltd Stewards.

BREACH OF RULE: ARR 91

Any rider who has a riding engagement at any race meeting shall be present in the jockeys room no later than 45 minutes before the advertised starting time for the first race in which he has a riding engagement and, unless otherwise permitted by the Stewards, shall thereafter remain in the jockeys room until he has completed his riding engagements, when he shall seek the permission of the Stewards to leave the jockeys room

PENALTY: Suspended from riding for 3 meetings.

DETERMINATION

The Appellant is an apprentice jockey and on 3rd June 2017 had riding engagements at the Morphetville Parks races.

The Appellant has appealed against a penalty of suspension from riding for 3 meetings.

The suspension arose because Ms Clark left the Morphetville Parks course on 3 June 2017 without the Stewards' permission contrary to Rule 91.

Rule 91 states, *"Any rider who has a riding engagement at any race meeting shall be present in the jockeys room no later than 45 minutes before the advertised starting time for the first race in which he has a riding engagement and, unless otherwise permitted by the Stewards, shall thereafter remain in the jockeys room until he has completed his riding engagements, when he shall seek the permission of the Stewards to leave the jockeys room."*

The Appellant rode in the last race at Morphettville on Saturday, 3 June 2017.

Prior to that date she had booked a plane flight out of Adelaide at 5.05pm for Tasmania, her home State. It was the only flight available, and that is why she booked it.

Circumstances leading up to the charge against the Appellant were that in the last race there were two incidents in the straight which involved another rider potentially being charged. Ms Clark was a witness to the incident and was required to give evidence to the Stewards.

At the completion of the last race Ms Clark discussed her situation with other jockeys and decided that she was leaving in any event because she had to catch the plane to Tasmania to catch up with her relatives who she had not seen for a long time.

As it turned out, the Appellant missed her flight and when contacted by the Stewards, returned to the racecourse.

As a result of failing to catch her plane she lost the airfare of about \$500 - \$600 as it was non-refundable.

Stewards convened an immediate Inquiry into her conduct.

The Appellant was given the opportunity of having the Inquiry adjourned to have her Master in attendance and she chose not to as she wanted the matter finalised.

At the Inquiry, when the circumstances were explained to her, she immediately accepted responsibility and pleaded guilty.

Although she did not know the details of the rule set out earlier, she knew that there was such a rule.

She said in her evidence to the Stewards that she "did the wrong thing, I understand that. It's a broken rule. There's no justifying it. I did the wrong thing." She said later that she should have gone in to the Stewards and told them what she was doing.

She accepted that she made the wrong decision in booking her flight and leaving for the airport without discussing it with the Stewards.

As it eventuated, Stewards would not have given her permission to leave because of the pending inquiry.

After hearing the Appellant's version of events and taking into account her record, Stewards suspended her for three meetings.

In the appeal, Mr Des O'Keeffe appeared on behalf of Ms Clark and made submissions essentially relating to the circumstances of the incident as described, but also pointing out where jockeys have been dealt with both in South Australia and interstate for similar breaches.

The general pattern emerging from those other decisions is that the jockeys are normally fined, and the average fine appears to be something around about the \$200 range.

Mr O'Keeffe submitted accordingly that the suspension was a harsh penalty and out of proportion to others.

Mr Santoro, for the Stewards, said that the Stewards in their deliberations initially considered a suspension for three weeks, but because of Ms Clark's plea of guilty and her contrition and remorse, they reduced that to three meetings.

In summary, it is my view that Ms Clark's decision was ill-informed. It was a selfish decision which she made for her own purposes without consideration of the impact it would have on other riders and other people involved with the riding incident inquiry, which was delayed as a result of her decision.

She inconvenienced many people and now realises that and apologises for it. I find that she was experienced enough to know better and she should never have contemplated booking that particular flight.

At the very least, she could have discussed it with the Stewards, who I am certain would have told her that if there was any suggestion of any Inquiry, then it was pointless having that flight booked, given the very short time span between the completion of the last race and the time of the flight.

Even if the last race had finished on time it is, in my view, highly unlikely that the Appellant would have caught the flight, and as it was her situation was worsened because the last race was delayed by a number of minutes.

The Appellant is an experienced apprentice from Tasmania and is currently riding in South Australia.

Her record is very good and she has not been charged with any offences in her riding career related to such an incident.

The Appellant quite appropriately pleaded guilty. She is remorseful and she now understands the consequences of her actions.

In my view, the three meeting suspension is, in the circumstances, harsh. It is harsh in comparison with other matters referred to me and, in the circumstances I have considered therefore what the appropriate penalty should be.

This conduct is more serious than a case for a reprimand and therefore a fine becomes appropriate.

The appropriate penalty is a fine of \$500.

I therefore allow the appeal and fix in lieu of the three meeting suspension a penalty of \$500 with seven days to pay that amount.

I also order the refundable portion of the bond.