

RACING APPEALS TRIBUNAL

RAT 8/2018

DATE OF HEARING: TUESDAY, 5 June 2018

TRIBUNAL:	PRESIDENT:	MR T ANDERSON QC
	ASSESSOR:	MR G PRETTY
IN ATTENDANCE:	THOROUGHBRED RACING SA LTD:	MR JOSH ADAMS, STEWARD
	APPELLANT:	MS RAQUEL CLARK

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

BREACH OF RULE: ARR 137(a) – Any rider may be penalised if, in the opinion of the Stewards:

(a) He is guilty of careless, reckless, improper, incompetent or foul riding.

PENALTY: SUSPENSION OF LICENCE TO RIDE FOR 4 MEETINGS

DETERMINATION

This is an appeal against conviction and penalty by apprentice jockey Raquel Clark.

In this appeal there is no need to consider the question of penalty, because in fact that has been served during a period of illness and therefore is not relevant to the Tribunal's present considerations.

Ms Clark was found guilty of careless riding under Australian Rules of Racing 137(a) in race 6 at Strathalbyn on 28 March 2018.

Ms Clark appeals on the basis that the evidence is insufficient to justify the conviction for careless riding.

The incident leading to her conviction occurred at around the 400-metre mark in the race where it is alleged that she took the running of another horse ridden by Ms Jamie Kah.

Ms Clark was riding *Wish List* and allegedly interfered with *Exalted Honey*, ridden by Ms Kah.

After the race the Stewards interviewed Ms Clark, Ms Kah, and another apprentice jockey, Ms Crowther.

After hearing the evidence of the three riders and inspecting the vision of the race, the Stewards found that there was a charge to answer under AR137.

The particulars of the charge laid by the Stewards are as follows ... *"As the rider of Wish List at Strathalbyn on Wednesday, 28 March 2018 in Race 6, in the vicinity of the 400 metres, allowed your mount to shift out when insufficiently clear of Exalted Honey, ridden by Jamie Kah. As a result, Jamie Kah had to take hold of her mount to avoid your heels."*

At the hearing, Ms Clark reserved her plea, and therefore the matter proceeded on the basis of a not guilty plea.

After considering the evidence, including the statements taken from the riders and viewing the race vision, the Stewards concluded as follows: *"We don't believe that you ever were sufficiently clear to shift ground. We are comfortably satisfied that Jamie Kah has established a run to your outside, and we're of the belief that your shift-out is somewhere between three quarters to a horse and Jamie Kah has no other option other than to take hold of her mount."*

Ms Clark, in her submission to the Tribunal, made the point that the vision of the race and indeed the statements made by Jamie Kah did not establish that Ms Kah had, at the point where the incident is alleged to have occurred, actually established a run to her outside.

Ms Clark's point was that Ms Kah was considering a run and giving herself options rather than having actually commenced or established a run.

The Tribunal examined the film closely.

It is not a good film, in as much as there is no head-on vision which would probably tell the story more accurately.

From the vision, and indeed from Ms Kah's evidence, the Tribunal cannot be convinced that she had actually commenced a run. That was an essential part of the Steward's reasoning.

That being the case, the Tribunal is of the view that Ms Clark must be given the benefit of the doubt and, on that basis, she cannot be found guilty of the offence as charged.

As a result, the appeal is allowed.

The conviction is quashed, and the refundable portion of the bond will be refunded to Ms Clark.