

RACING APPEALS TRIBUNAL

RAT 13/2018

DATE OF HEARING: FRIDAY 6 JULY 2018

TRIBUNAL: **DEPUTY PRESIDENT:** MR M KING

ASSESSOR: MR G PRETTY

IN ATTENDANCE:

STEWARDS, THOROUGHBRED RACING SA LTD:
MR A HAYLES

APPELLANT: MS J KAH

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

BREACH OF RULE: AR137(a)

“Any rider may be penalised if, in the opinion of stewards,

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

PENALTY: SUSPENSION OF LICENCE TO RIDE FOR 3 RACE DAYS

DETERMINATION

The Appellant Ms J Kah is a licenced jockey.

On 20 June 2018 the Appellant rode a horse LOSTARC in Race 1 at a race meeting at Balaklava.

Following the race, the Stewards held an Inquiry into incidents in the race. At the conclusion of the Inquiry the Stewards determined to charge the Appellant with a breach of AR137 (a), which states:

“Any rider may be penalised if, in the opinion of Stewards,

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

Particulars of the charge were provided to the Appellant in the following terms:

“That whilst riding LOSTARC in Race 1 at Balaklava on Wednesday, 20 June 2018, the Appellant (J Kah) shifted out, in the vicinity of the 400 metres around the heels of SHIRLEY’S EAGLE to improve when insufficiently clear of TENOSSUH, inconveniencing that gelding taking it wider on the track.”

The Appellant pleaded guilty to the charge and consideration of the appropriate penalty occurred.

When considering penalty, the Stewards took into account the nature of the riding, the appellant's guilty plea and her clean record together with other relevant factors.

The Stewards imposed a penalty of suspension for three South Australian race dates.

The Appellant appealed to this Tribunal against the penalty imposed.

The Appellant represented herself on her Appeal and made a concise and well-considered submission.

When determining the Appeal, this Tribunal was assisted by the very experienced Assessor, Mr G Pretty, who provided to the Tribunal the benefit of his experience in his analysis of the vision of the race.

The essence of the charge, and the basis upon which the Stewards penalised the Appellant, was that as the field neared the 400-metre mark in the race, the Appellant elected to shift her mount LOSTARC out with a view to moving around a horse in front, SHIRLEY'S EAGLE. As the Appellant started to do so, SHIRLEY'S EAGLE shifted out. The Stewards contended that the Appellant then continued to move out wider so as to accommodate SHIRLEY'S EAGLE shift. In so doing the Appellant's mount LOSTARC severely inconvenienced TENOSSUH. The Stewards contended that when SHIRLEY'S EAGLE started to shift outwards there was ample time for a jockey of the Appellant's experience to consider and take alternative action which would not have inconvenienced TENOSSUH.

On that basis the Stewards took the view that the level of the Appellant's carelessness was sufficient to sustain the charge and that a suspension was warranted although at the lowest level of suspension applied for breaches of this Rule.

The Appellant argued that she was committed to taking a run on the outside of SHIRLEY'S EAGLE when unexpectedly SHIRLEY'S EAGLE rolled outwards affording her very little opportunity or time to take alternative action. In pleading guilty, she conceded that there was an element of carelessness on her part but argued that the significant cause of the interference was the sudden and unexpected outward shift of SHIRLEY'S EAGLE and that the level of her carelessness was sufficiently low as to call for only a penalty or a reprimand or at worst a severe reprimand.

During the course of the Appeal the parties took the Tribunal through the vision of the incident on a number of occasions.

Having reviewed the vision carefully, it is the view of the Tribunal that the vision of the incident does not support the Appellant's argument. Whilst SHIRLEY'S EAGLE did roll out, it was at a time when there was still some opportunity for the Appellant to take an alternative approach with her mount

LOSTARC, such as checking her horse or if possible shifting back to an inside run. Whilst the timing was tight, it is the view of the Tribunal that the opportunity was present for the Appellant and that her continued outward movement in response to SHIRLEY'S EAGLE'S shift outward warranted both the finding of guilt and the imposition of a penalty of suspension.

The decision of the Tribunal is that the Appellant's appeal against penalty is dismissed. The penalty imposed by the Stewards of three South Australian race dates is upheld to commence at midnight on Sunday, 8 July 2018.

There will be an order for a refund of the applicable portion of the bond.