29 October 2019

**DECISION**

**RACING VICTORIA**

**and**

**MR BEN MELHAM**

**Date of hearing:** 29 October 2019

**Panel:** Judge John Bowman (Chairperson)

**Appearances:** Mr Robert Cram appeared on behalf of the Stewards.

 Mr Paul O’Sullivan appeared on behalf of Mr Melham.

**Charge:** Australian Rule 131(a) states a rider must not, in the opinion of the Stewards: (a) engage in careless, reckless, improper, incompetent or foul riding;

**Particulars of charge:** Ben Melham (Broadwayandfourth) pleaded guilty to a charge of careless riding under the provision of AR131(a). The careless riding being that near the 200 metres he permitted his mount to shift in when not clear of Donttelltheboss, which resulted in that filly being tightened for room between Broadwayandfourth and Free Thrills. B Melham had his licence to ride in races suspended for a total of eight meetings to commence midnight 26 October, 2019 and to expire midnight 2 November, 2019. (2 metro, 6 provincial). In assessing penalty the Stewards were of the view that the incident qualified for the low range category of carelessness and took into account his guilty plea and good record.

**Plea:** Guilty

**DECISION**

Mr Ben Melham, you have pleaded “Guilty” to a charge of careless riding. It relates to your ride on Broadwayandfourth in Race 4 over 1200 metres at Moonee Valley on 26 October 2019. In essence, it is alleged that near the 200 metre mark, you permitted your mount to shift in when not sufficiently clear of Donttelltheboss, ridden by Dean Yendall, resulting in his horse being tightened for room between your mount and Stephen Basters mount, Free Thrills. Two other horses are also relevant.

I have viewed the video material presented today by the Stewards, and have had the opportunity of viewing the race from 2 angles. The overhead shot and effectively the head on shot were viewed, with much of the time spent focusing upon the overhead shot. I would agree that, as suggested by you and Mr Cram, the overhead video shot is the more helpful.

I say two things from the outset. You have placed considerable emphasis upon the assertion that Luke Nolen’s mount (which was on the rails), shifted out. Stephen Baster’s mount, was outside Nolen. Dean Yendall’s mount (the victim of being tightened), was outside Baster and you were four wide following Damien Lane.

I am far from convinced that Luke Nolen’s mount made any meaningful contribution to what occurred. It drifted away from the rails after you had caused the tightening. It is quite clear from the still shot taken from the overhead viewpoint (and which, incidentally, is still on the screen), that Nolen was comparatively hard against the rails, a length and quarter or so in front of Baster and the best part of 2 lengths ahead of you when you started to cross Baster. You ultimately took the run between Luke Nolen and Damien Lane. You had effectively been tracking Lane and you were 4 wide. You moved from 4 wide to 3 wide, tightening Dean Yendall, and then took the run between Nolen and Lane. You went on to win. As stated, in taking that run you tightened Yendall noticeably. There was still room between Nolen and Lane, even though Nolen had commenced to drift away from the rails after the tightening. I am far from persuaded that Nolen’s mount played any role in the tightening of Yendall, which had occurred earlier.

Secondly, I am not persuaded that the fact that the small plate at the bottom of your right iron had been dislodged at the start of the race played any significant role. I accept that you were not aware that this had occurred until informed by the Stewards after the race.

The fact is that you went from 4 wide to 3 wide in order to drive your horse through the gap between Nolen and Lane. In so doing, you noticeably tightened Yendall, who was entitled to maintain his position 3 wide on the outside of Baster and Nolen.

I take into account your early plea of guilty. I also take into account your good record of 1 suspension for careless riding, in Singapore, this calendar year, although there were 3 suspensions late in 2018.

I have said many times that the range of penalties for low, medium and high carelessness are employed by the Stewards and are used as a guide for that purpose. They are not in the Rules. They are a helpful aid in an endeavour to arrive at consistent and predictable penalties. Jockeys are aware of them.

I accept that this was low level carelessness as asserted by the Stewards. However, I am also of the view that the penalty of 8 meetings suspension is appropriate. You took a chance of effectively forcing your horse into a gap and taking the running of Dean Yendall’s mount, causing interference to it. The appeal is dismissed.

Mark Howard
Registrar, Victorian Racing Tribunal