7 July 2022

**DECISION**

**RACING VICTORIA**

**and**

**BLAIKE McDOUGALL**

**Date of hearing:** 6 July 2022

**Panel:** Magistrate John Doherty (Deputy Chairperson) and Mr Des Gleeson.

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

Mr James Winks represented Mr Blaike McDougall.

**Charge:** Australian Rule of Racing (“AR”) 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:** MrBlaike McDougall (Mimi's Award) was found guilty of a charge of careless riding under the provisions of AR131(a), the careless riding being that from the 350m to the 50m, he permitted his mount to shift out when insufficiently clear of Monbaher (IRE), resulting in that gelding being taken out off its course. Blaike McDougall's licence to ride in races was suspended for a period of 12 race meetings, dates to be subsequently advised. In assessing penalty, account was taken of his record and that the carelessness was in the mid-range.

**Plea:** Not Guilty

**DECISION**

Mr Blaike McDougall, you are appealing against the decision of the Stewards that you were guilty of careless riding in Race 6 at Flemington on 2 July 2022. The race was over 2,600 metres and the incident that gave rise to the charge occurred at approximately the 350m mark and the 50m mark.

Racing Victoria (“RV”) Stewards have submitted video footage of the subject race and the transcript of the post-race interview with Mr McDougall. Mr Brett Prebble, the jockey on “Monbaher”, lodged a successful protest on the second placegetter against Mr McDougall’s mount, “Mimi’s Reward”, who was first past the post alleging interference in the home straight. Consequent to that, Stewards laid and found proven a charge against Mr McDougall of careless riding and suspended him for 12 meetings. It is against the Stewards finding and penalty that Mr McDougall now appeals to this Tribunal.

In his submission, Mr James Winks, on behalf of Mr McDougall, has argued that there was no contact between parties and that Mr Prebble only changed course once and that Mr McDougall did swap hands with his whip in order to straighten his mount.

The relevant Rule 131(a) does not require contact to be made in order to support the charge. It is very clear that from about the 300 metre mark to about the 50 metre mark, Mimi’s Reward has shifted out several horses when insufficiently clear of Monbaher, resulting in Monbaher being taken out of its course. During that period, Mr McDougall did not stop riding Mimi’s Reward in an effort to straighten it, but continued to allow his mount to drift out denying Monbaher to track on its course it was set upon. The fact that Mr Prebble was not placed in any real danger is an insufficient reason to uphold the appeal in Mr McDougall’s favour.

In determining penalty, Stewards found the degree of carelessness to be in the mid-range which would ordinarily warrant a suspension of 14 meetings. In determining a penalty of 12 meetings suspension, Stewards factored four considerations as follows:

1. Mr McDougall kept riding and never attempted to straighten his mount.

2. There as a gross shift of about seven horses wide covered by Mr McDougall’s mount.

3. The length of time from the 300 metres to the 50 metre mark where the shifting out occurred and the narrow margin of between 1 to 1¼ lengths between Mimi’s Reward and Monbaher.

4. The Reserve plea before the Stewards which they interpreted as not entitling Mr McDougall to any reduction of penalty. In addition, Stewards did factor that Mr McDougall had lost the race on protest and in all the circumstances thought that a 14 meeting suspension would be too harsh, as well as considering Mr McDougall’s general riding record with five suspensions in 12 months as a busy rider.

From our point, we find no fault in the Stewards consideration in respect of penalty. It might be argued that losing the race on protest is that the Stewards are only correcting a wrong and that little consideration ought to affect the penalty to be given to Mr McDougall.

Be that as it may, Stewards have submitted that if Mr McDougall had pleaded guilty to the charge of careless riding, that they would have imposed a 10 meeting suspension given that such a plea is demonstrative of remorse and acceptance of culpability. In our opinion such a penalty would have been appropriate.

However, Mr McDougall by nature of his not guilty plea is not entitled to that concession today. In the event, the appeal is dismissed. The penalty of a 12 meeting suspension shall commence on 9 July 2022 and end of midnight 21 July 2022.

Mark Howard
Registrar, Victorian Racing Tribunal