2 March 2020

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**MR DYLAN ACHISON**

**Date of hearing:** 26 February 2020

**Panel:** Judge John Bowman (Chairperson), Judge Graeme Hicks (Deputy Chairperson) and Ms Marilyn Harbison.

**Appearances:** Mr Brett Day appeared on behalf of the Stewards.

Mr Dylan Achison represented himself at the hearing.

**Charge:** Australian Harness Racing Rule 231(1)(a) reads as follows: A person shall not threaten anyone employed, engaged or participating in the harness racing industry or otherwise have a connection with it.

**Particulars of charge:**

1. On 7 December 2019 an incident occurred between licensed persons Joe Pace and Emma Stewart at the Cranbourne race meeting following the running of Race 7;
2. On 7 December 2019 at 11.41pm you contacted licensed trainer/driver Mr Joe Pace via telephone. During this telephone call you made comments to Mr Joe Pace that you would burn down his stables and/or house with reference made to the prior incident involving Mr Pace and Ms Stewart;
3. By contacting Mr Pace and making these comments you threatened Mr Pace a person participating in the harness racing industry.

**Plea:** Not Guilty

**DECISION**

Mr Dylan Achison, you have pleaded ‘not guilty’ to a breach of Rule 231 (1)(a). In essence, the charge is that, on 7 December 2019, you, being a licensed person, made threats to Mr Joe Pace, also a licensed person. The alleged threat was that you would burn down his stables and/or his house. This followed a disagreement between Mr Pace and Ms Emma Stewart. At the time Ms Stewart, also a licenced person, employed you as a stablehand.

You admit that you used a mobile phone to make a phone call from a car to Mr Pace on his mobile phone at about 11.41pm. The call only lasted a little over 30 seconds. Mr Pace was also in a car, and he answered the call on speaker phone.

The only real dispute is whether in fact you threatened to burn down his stables and/or house if he caused more trouble to Ms Stewart.

You say that you criticised him for what he had done, but did not make the threats about burning stables and the like. The other witnesses in the car which you were in are not able to take matters much further.

Mr Pace and three other occupants of his car have provided statements to the effect that you did make the threats relating to burning and the like.

The only other matter of relevance is this. Certainly at least some of those in your car had been doing a bit of drinking.

The relevant test to be applied is the Briginshaw test of comfortable satisfaction. We are comfortably satisfied that you did make the threats that have been alleged and in so doing breached Rule 231 (1)(a). In short, we find the charge proven and we find you guilty of the offence. We will now hear from the parties on the question of penalty.

**PENALTY**

The appropriate penalty is that suggested by Mr Brett Day on behalf of the Stewards, namely, a 3 month suspension commencing from 26 February 2020. We have taken into account your circumstances, in that you are in fact a student and have limited income. In any event, we think a suspension is the appropriate penalty.

Mark Howard
Registrar, Victorian Racing Tribunal