21 May 2020

**DECISION**

**RACING VICTORIA**

**and**

**MR KEITH HALL**

**Date of hearing:** 19 May 2020

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

**Appearances:** Mr Daniel Bolkunowicz appeared on behalf of the Stewards.

 Mr Keith Hall represented himself.

**Charge:** Australian Rule (AR) 227(a) states

Without limiting any other powers, a PRA or the Stewards may penalise any person who:

1. commits any breach of the Rules, or engages in conduct or negligence which has led or could have led to a breach of the Rules;

**Particulars of charge:**

1. You are, and were at all relevant times, a Trainer licensed by Racing Victoria.
2. On the morning of 15 January 2020, you attended trackwork at the Bendigo Racecourse, where you were involved in a physical confrontation with licensed picnic rider, Rob Kirkpatrick.
3. During the confrontation, you kicked Mr Kirkpatrick in the vicinity of the chest area.
4. Your conduct, as described in particulars 2 and 3, constitutes conduct and/or negligence which led or could have led to a breach of the Rules of Racing, including (but not limited to) AR 228(b).

**Plea:** Guilty

**DECISION**

Mr Keith Hall, you are appealing against a penalty of a fine of $750 imposed by Stewards in respect of an incident at Bendigo racecourse on 15 January 2020. As a result of that incident, you have been charged with a breach of AR 227(a). You now plead ‘guilty’ to the charge, but you are appealing on the basis that $750 is an excessive penalty.

The factual background is that at trackwork at Bendigo on 15 January 2020, you were holding the horse, Reoffered, when you were in the vicinity of Mr Rob Kirkpatrick, a trackwork rider. There had been some bad blood between you for 12 months or so. You claim that Mr Kirkpatrick approached you and used words to the effect that no one was going to ride the horse. You claim he adopted a threatening position with a raised arm and a closed fist. You continued to hold the horse, but admit that you kicked him in the vicinity of the chest or ribs. He then struck you a blow to the nose. This was of sufficient force to knock you to the ground and cause a laceration to the back of your head, in addition to causing you to bleed from the nose. The damage could have been worse. Mr Kirkpatrick’s version of events differs from yours, but there is no argument but that you kicked him in the area of the chest and ribs before he punched you. You did the right thing in not letting go of the reins.

You are aged 69, on the age pension, and live on your own property at White Hills. You have been a trainer for some 50 years and have no relevant prior convictions. You train just the one horse.

General deterrence and specific deterrence are important factors. You initiated the physical side of this confrontation by kicking Mr Kirkpatrick in the chest. That does not excuse his punching you, but the physical contact started with your kicking him. This sort of behaviour by licenced persons cannot be tolerated and is dangerous.

Previous penalties imposed in circumstances like these have generally resulted in larger fines than $750.

In my opinion, the fine of $750 is at the bottom of the scale and, given your circumstances, including your financial circumstances, it is the appropriate penalty. The appeal is dismissed.

Mark Howard
Registrar, Victorian Racing Tribunal