18 May 2020

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**MR ROBERT TOLSON**

**Date of hearing:** 13 May 2020

**Panel:** Judge John Bowman (Chairperson) and Judge Marilyn Harbison.

**Appearances:** Mr Damien Hannan appeared on behalf of the Stewards

Mr Robert Tolson represented himself.

Dr Gavin Goble appeared as a witness.

**Charge:**  Local Racing Rule (LR) 42.6 Rehoming and notice requirements

1. An Owner must make all reasonable efforts to avoid euthanasia of their greyhound by finding it a suitable long-term home.
2. An Owner must provide the Board with at least 14 days but no more than 42 days, prior written notice, in the approved form, of an intention to euthanase a fit and healthy greyhound. For the avoidance of doubt, a notice under this sub-rule can only be lodged after the requirements of LR42.6(c) have been met.

*Minimum requirements for rehoming*

1. Without limiting LR42.6(a), actions that an Owner must take to find a suitable long-term home for their greyhound include:
2. a wind down period comprising at least 28 days during which the Owner must ensure that:
3. the greyhound has not engaged in any racing related activities, (including but not limited to) trialling, breaking, education, training or racing; and

(B) genuine and daily efforts have been made to socialise the greyhound to non-training and non-racing settings and environments, and

1. after the end of the wind down period under LR42.6(c)(i), making at least one genuine attempt of each of the following:

(A) seek to re-home the greyhound with at least two appropriate third parties who are capable of ensuring the welfare and well-being of the greyhound, and

(B) seek the greyhound’s admission to the Greyhound Adoption Program, and

(C) seek to rehome the greyhound’s through at least one other animal adoption, re-homing or rescue agency.

1. For the avoidance of doubt, an Owner must ensure that wind down activities in LR42.6(c)(i) must continue throughout the period of notice required in LR42.6(b).

*Medical exception from rehoming and notice requirements*

1. LR42.6(a) and LR42.6(b) do not apply if a registered veterinarian certifies, in the prescribed form, that the greyhound is suffering from an incurable condition or injury that causes significant pain or discomfort, or a marked reduction in quality of life.

*Legal exception from rehoming and notice requirements*

1. LR42.6(a) and LR42.6(b) do not apply if the greyhound is required to be euthanased to comply with law.

*Behavioural exception from rehoming requirements*

1. LR42.6(c)(ii) does not apply if a registered veterinarian or other person approved by the Board certifies, in the prescribed form, that the greyhound is displaying significant behavioural characteristics that negatively impact on its suitability as a pet, including aggression towards humans or other animals.

*Extension of duration of notice*

1. Application for an extension to the duration of a notice under LR42.6(b) may be made at any time prior to the expiration of the notice, in the approved form. The Board or an authorised officer of the Board may grant or refuse an application for an extension.

*Evidence of rehoming requirements*

1. An Owner must:
2. keep detailed records of their compliance with LR42.6, and
3. provide records and evidence kept under this rule to a Steward or authorised officer of the Board on request.

*Serious offence to fail to comply with rehoming and notice requirements*

1. Failure to comply with LR42.6 is a Serious Offence.

**Particulars of charge:**

1. You were, at all relevant times, an owner registered with Greyhound Racing Victoria (GRV) and a person bound by the Greyhound Australasia Rules and Local Racing Rules.
2. On the 12 March 2019 you did euthanise greyhound ‘Nellie Shan’ (Ear Brand VEOPQ’, Microchip 956000003261040) due to injury and behaviourally unsuitable to re-home.
3. Prior to the euthanasia you did fail to;
	1. provide a wind down period comprising at least 28 days and,
	2. provide the Board with at least 14 days prior written knowledge, in the approved form, of an intention to euthanise a fit and healthy greyhound.

**Plea:** Not Guilty

**DECISION**

Mr Robert Tolson, you have pleaded ‘not guilty’ to a breach of LR 42.6. In summary form, that involves a failure to comply with the rehoming and notice requirements. Essentially it relates to the euthanising of the greyhound ‘Nellie Shan’ on 12 March 2019 without providing a wind down period of at least 28 days and without providing the Board at least 14 days prior to the euthanasia with written knowledge in the approved form of your intension to euthanise.

There is no dispute but that the dog was taken to the McIvor Road Veterinary Centre on 12 March 2019. It had raced at Ballarat on 4 February 2019 and the Stewards’ report indicates that, on that occasion, it sustained a right back muscle injury and was stood down for 14 days. It raced at Horsham on 9 March, three days before the visit to the Veterinary Clinic. There is no record in the Stewards’ report of the dog suffering an injury on that occasion, although it was involved in a collision shortly after the start. You have stated that it was vetted after the race, although this is not recorded.

In any event, the dog was taken by you to the Veterinary Centre on 12 March. You have stated that at first the dog was first seen by Dr Kathryn Logan and then by Dr Sue Collins, who we accept is a very experienced veterinary surgeon and particularly with greyhounds.

Your assertion is that Dr Collins stated that the dog would have to be euthanised. The matter was listed before us for hearing on 6 May 2020. It commenced, but was adjourned at your request so that you could call Dr Collins to give evidence of what you asserted.

In fact, when the matter resumed today, you called neither Dr Collins or Dr Logan. We might add that Dr Gavin Goble, General Manager of Greyhound Welfare and Rehoming Department gave evidence. Dr Goble gave evidence that he had contacted both Dr Logan and Dr Collins by telephone on 1 April 2019. Both had examined the dog. Both observed the dog walking in the clinic. The dog was assessed as having mild – 1 out of 5 – right hind lameness due to a right hock injury. For the injury in question, Dr Collins would recommend anti-inflammatories for a few days and cage rest for a few weeks. Recovery sufficient for entry into the Greyhound Adoption Program could be as short as 4 weeks, although the possibility of the dog returning to racing was also raised.

Dr Goble also expressed the opinion that the dog had suffered a mild hock injury that, with conservative treatment, was likely to have resolved and with a good welfare outcome. The seriousness of the injury did not meet the requirements of a medical exception from rehoming and notice requirements.

The Greyhound Euthanasia Certificate signed by Dr Logan on 12 March 2019 indicated quite clearly that option 2 operated. This was euthanasia at the owner’s request. LR42.6 applies. You, as a registered owner, are required to provide a wind down period and provide the Board with at least 14 days notice of the intension to euthanise. We are satisfied that Nellie Shan was euthanised at your request as indicated on the Certificate. We are satisfied that the requirement of LR42.6 was not completed by you. Therefore, we find the charge to have been made out and that you have breached LR 42.6 as alleged.

**PENALTY**

Mr Robert Tolson, we have found you guilty of a breach of LR42.6. You did not provide a wind down period of 28 days before euthanising the dog Nellie Shan and you did not provide the Board with 14 days written knowledge. Most of the earlier decisions in relation to breaches of this Rule were in relation to the breach of the 14 days component, but as stated, you failed to comply with both requirements. Further, you do not get the benefit of a plea of ‘guilty’.

You are a 55 year old man, unemployed because of health problems. You live on your own at Maryborough, and we accept that your dogs play a very important role in your life. You have been a public trainer since 1998 and were an owner-trainer before that. You have no prior conviction for an offence of this nature and, in the last 25 years, have no prior convictions of any magnitude. You have 3 dogs and kennel them at your house block at Maryborough. We again state that we accept how important they are to you.

General deterrence is an important factor in cases such as this. The welfare of greyhounds receives much public and media attention. The operation of the GAP scheme plays a very significant role in attempting to improve the public image of the sport. It has been very successful and it is most important that LR42.6 be observed.

The circumstances of your case, and the sad situation you find yourself, along with your long and good record, make us sympathetic to your position.

However, bearing in mind the importance of the matters we have mentioned, a period of suspension is required.

You are suspended for a period of 12 months, with 9 months of that in turn suspended. That means that you will be suspended for 3 months, with a further 9 months hanging over your head if you should offend in this way again. The period of suspension shall start today. Given your circumstances, we shall not impose a fine.

Mark Howard
Registrar, Victorian Racing Tribunal