21 November 2022

**RULING**

**GREYHOUND RACING VICTORIA**

**and**

**GERRY ORR**

**Date of hearing:** 17 November 2022

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

**Appearances:** Ms Yana Podolskaya appeared on behalf of the Stewards.

Mr Gerry Orr represented himself.

**RULING**

I say at the outset that questions of law and jurisdiction arise in this matter. Mr Gerry Orr has lodged an appeal against an alleged decision made by Greyhound Racing Victoria (“GRV”). The grounds of his appeal are set out in his Form 1, headed “SECTION 50K APPEAL OF THE VICTORIAN RACING TRIBUNAL”.

The grounds are stated to be based upon a decision of GRV on 11 November 2022. The grounds are set out as follows: -

“GRV is not giving us a safe work place invironments + refuse to take action against another trainer (David Kerr) who keeps breaching a Ruling from 15-12-2022 and lifted the Ruling early after death threats”.

I say that the date of “15-12-22” is obviously not the date of the Ruling. It may be the date of expiry of the Ruling, but I attach no importance to any error that may be involved.

On the same document the following handwritten grounds are set out: -

“I am appealing the GRV Ruling to lift the directions notice from David Kerr as he has breached the Ruling on several occasions all caught on GRV CCTV footage yet GRV won’t do anything about it and has been escalating now to death threats from David Kerr yet GRV wants to ignore it and lift the ban. I understand there will be 2 sides to the story yet if GRV have viewed the CCTV footage…” (handwritten grounds cease).

A further typed document reads as follows: -

“I would like to appeal the GRV Ruling today 11/11/2022

Myself and my partner have had constant harassment from another greyhound trainer

David Kerr and now his wife Rosalie Kerr

I have reported this to GRV on several occasions

And been turned away

It has been caught on GRV cctv

Yet nothing has been done

We we[re] both given directions notices to stay away from each other

Back in December 2021

And clause 4 states not to talk to each other yet he has broken that clause on numerous occasions

I tried to appeal the decision because I was the innocent party

But due to the technicality of the 3 days grace period even tho it was within the 3 days of being emailed the decision it was said I was notified by phone 4 days prior.

I have reported to the stewards straight away when David has approached myself or my partner

And asked them to keep the cctv footage (as the camera doesn’t lie)

As I was aware his turn of events

We’re totally different.

Just to be tuned away by the stewards

Things have really escalated to death threats by David Kerr

Yet I am advised today that GRV Simon Maclean that they will be canceling the GRV orders against David Kerr which is not due to expire until next month

Surly GRV should be providing as with a safe work place

And taking this matter very seriously

GRV is making us feel like the guilty party not the victims

I totally understand they are receiving 2 different stories

But if the cctv footage had been viewed

When I requested it

It would have been very clear

GRV seems to have no regard to follow the directions notice given to David Kerr

As a result this is and has resulted and escalated to death threats”.

I have set out the above details in full so as to make the details of the attempted appeal clear.

However, the primary problem facing Mr Orr is one of jurisdiction. Section 50C of the *Racing Act* 1958 (“the Act”) sets out the functions of this Tribunal. Those functions are to hear and determine appeals under section 50K; appeals in relation to the directions made by the Racing Integrity Commissioner (section 50L); charges for a serious offence; matters referred on GRV’s own motion or recommendation of the Chief Steward or Deputy Chief Steward; and appeals in relation to approvals of bookmakers or in regard to a Trainer User Agreement. Essentially, that takes us to section 50K of the Act.

Section 50K deals with appeals to this Tribunal and hence the heading on the Notice of Appeal form. Section 50K(1) limits the jurisdiction to an appeal against a decision made under the Rules when the decision is to impose a penalty on the person if the penalty is a suspension, disqualification or warning off or is a fine in excess of $250.

That is the entirety of the appeal jurisdiction of the Tribunal pursuant to section 50K.

Section 50L provides that the Racing Integrity Commissioner may deal directly with certain appeals in relation to fines of not more than $250. That is not applicable in the present case. Section 50M provides for certain appeals by registered bookmakers. That is not relevant. None of these apply.

The bottom line is that this Tribunal does not have the jurisdiction to deal with a dispute such as the present one, when there has not been a suspension, disqualification, warning off or fine and where there is no charge of a serious offence. The provisions concerning the Racing Integrity Commissioner and bookmakers are not relevant.

Without wishing to sound too technical, and appreciating that Mr Orr is not legally represented, the Tribunal is a creature of statute and it has no powers other than those allocated to it in the Act. On the basis of the facts as I understand them, there is simply no jurisdiction for the Tribunal to hear a dispute between members of the industry or in relation to orders, or lack thereof, arising from alleged behaviour of members. I would emphasise that the behaviour at the centre of this application and the complaints of Mr Orr about it are simply outside the jurisdiction of the VRT.

I would also refer to the decision in Greyhound Racing Victoria v Richard Gray (24 January 2022). That involved an edict of GRV concerning the wearing of face masks in the context of Covid. Because of personal health problems, Mr Gray had great difficulty in wearing masks as prescribed. He challenged the masking requirement. Whilst I had sympathy for his situation, my conclusion was that the Tribunal had no jurisdiction to deal with the masking problem. The lack of jurisdiction seems to me to be just as clear, if not clearer, in the present case.

My conclusion is that the Tribunal has no jurisdiction to deal with this factual situation or to grant any relief.

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal