18 October 2023

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**JORDAN LEEDHAM**

**Date of hearing:** 13 October 2023

**Panel:** Justice Shane Marshall (Deputy Chairperson) and Mr Greg Childs.

**Appearances:** Mr Grant Adams appeared on behalf of the Stewards.

Mr Anthony Butt represented Mr Jordan Leedham.

**Charge:** Australian Harness Racing Rule (“AHRR”) 156(2)(a) states:

A driver shall only apply the whip and/or the rein with a wrist only flicking motion whilst holding the rein in each hand with the tip of the whip pointed forward in an action which does not engage the shoulder.

**Particulars of charge:** Driver, Jordan Leedham, pleaded guilty to a charge pursuant to Rule 156(2)(a) for using his whip more than a wrist only flicking motion. In determining penalty, Stewards considered Mr Leedham’s record, with a first tier penalty having been imposed at Geelong some five nights earlier, the nature of the breach which Stewards deemed as serious in terms of his action, the amount of force used and significant number of strikes outside the parameters of the rule. Mr Leedham’s licence to drive was suspended for a period of two weeks, with the deferment granted to allow the suspension to commence midnight 9 October 2023.

**Plea:** Guilty

**DECISION**

1. Mr Jordan Leedham is a registered Grade A harness racing driver.
2. On 2 October 2023, he drove the horse “Malibu Jack” in Race 8 at Maryborough. After the race, Stewards charged Mr Leedham with an offence under Australian Harness Racing Rule (“AHRR”) 156(2)(a).
3. Mr Leedham pleaded guilty to the offence of using his shoulder when using the whip.
4. Stewards imposed a penalty of two weeks suspension.
5. On 5 October 2023, Mr Leedham filed with the Registry of the Tribunal an appeal against the imposed penalty and contends it was too severe.
6. In the hearing before the Stewards on 2 October 2023, the Stewards alleged that “at a point just upon entering the home straight until well into the home straight” Mr Leedham used his whip on numerous occasions with “more than the required flicking motion”.
7. Mr Leedham has a recent prior offence under AHRR 156(2)(a) in relation to an event at Geelong. He was fined $200. Ordinarily a second offence would incur a $400 fine. However, the Stewards imposed a penalty of two weeks suspension, given what they considered to be the high range of offending on this occasion. It was their opinion that the Rule was breached at least on seven occasions in the home straight. This was later revised on appeal to five occasions. We agree with that revision from our own observations.
8. Having seen the race replay, Mr Leedham conceded, that his whipping action was not a good look. The Stewards remarked in their penalty decision that “there’s a good deal of elbow and shoulder force involved over a number of strikes over some distance”.
9. In setting a penalty, the Stewards referred to a recent transgression of the same Rule at Geelong. That offending occurred on 27 September 2023 and led to a $200 fine. Penalties for other offending under the same Rule which occurred more than 28 days after the new offence were disregarded by the Stewards as set out in the Harness Racing Victoria (“HRV”) Penalty Guidelines. Therefore, the Stewards did not take into account a previous offence under the same Rule on 9 July 2023 at Ararat which involved a two week suspension. They also did not rely on other offending under the same Rule in June 2023 at Ballarat and Ararat. We are not so confined because, whilst we are influenced by the HRV Penalty Guidelines, they do not bind us.
10. Having regard to the history of offences under this Rule by Mr Leedham and the number of occasions on which it was transgressed at Maryborough, we consider that the two weeks suspension imposed was within the permissible range of penalties for the offending. We dismiss the appeal.
11. Due to agreement between the parties, the penalty did not take effect on 9 October 2023 until the hearing of this appeal. Having heard submissions from the parties, we order that the two weeks suspension commence at midnight tonight, 13 October 2023.

Kathleen Scully

Assistant Registrar, Victorian Racing Tribunal