9 November 2023

**RULING**

**HARNESS RACING VICTORIA**

**and**

**ALANNAH LOGIE**

**Date of hearing:** 31 October 2023

**Panel:** Judge John Bowman (Chairperson), Ms Maree Payne.

**Appearances:** Mr Andrew Cusumano appeared on behalf of the Stewards.

Mr Corey Bell represented Ms Alannah Logie.

**Stewards report: Race 3 at Shepparton on Friday, 22 September 2023**

Prior to the All Clear and after viewing the video footage of the race Driver Alannah Logie, the driver of LADY LANI (placed 2nd) lodged a protest against the winner TUPELO BEACH. After considering the submissions of all connections and reviewing the video footage, Stewards were of the opinion that on entering the straight LADY LANI and TUPELO BEACH both moved down towards the sprint lane, with TUPELO BEACH racing tight to the inside of LADY LANI. This resulted in TUPELO BEACH contacting a marker peg momentarily and marginally going inside that peg. Thereafter LADY LANI shifted outwards in the final 100m resulting in TUPELO BEACH improving to its inside and winning the race. In considering all the circumstance, the margins and the manner the horses finished of the race the protest was dismissed and all clear declared.

**RULING**

This is an unusual appeal.

The question which immediately arises is whether this Tribunal possesses the jurisdiction to hear it. That in turn raises a question of law. Pursuant to S.50X of the *Racing Act* 1958 – “the Act” – questions of law must be decided by the Chairperson or by a Deputy Chairperson. Accordingly, I shall determine it, but with invaluable assistance from Member Ms Maree Payne, with whom I am sitting.

The appeal was issued by Ms Alannah Logie, a licensed harness racing driver. It arises from the running of Race 3 at Shepparton on 22 September 2023. Ms Logie was driving Lady Lani. The other horse involved was Tupolo Beach. Tupolo Beach was first past the post. Lady Lani was second.

Without going into the concluding stages of the race in great detail, Ms Logie protested, second against first, on the basis that, early in the home straight on the last occasion, Tupolo Beach had raced on the inside of two or three marker pegs and then cut back in, thereby gaining a winning advantage.

The protest was dismissed. It is the dismissal of the protest that caused Ms Logie to issue an application out of this Tribunal – a Tribunal appeal form pursuant to S.50K of the Act effectively seeking a review of the decision of the Stewards. I repeat that she is seeking a review by this Tribunal of the dismissal of the protest.

Mr Andrew Cusumano, on behalf of the Stewards, has argued that the appeal should be dismissed on the basis of a lack of jurisdiction. Mr Corey Bell, who assisted and appeared for Ms Logie, concentrated more on the unfolding of the race and the merits of the protest. That is no criticism of Mr Bell, who assisted Ms Logie in a detailed and polite fashion.

However, the key issue remains that of jurisdiction.

In my opinion, this Tribunal does not have jurisdiction to hear an appeal such as this – a post-race appeal against the outcome of a protest.

I would refer back to the Act, pursuant to which this Tribunal receives its jurisdiction, its power, and indeed its existence.

S.50C(a) of the Act effectively takes one to S.50K. That sets out the types of penalties concerning which an appeal can be heard by this Tribunal. The penalties are limited to suspensions, disqualifications, warnings off and fines in excess of $250.

Loss of a protest clearly does not fall within the operation of the section.

Further, an appeal is just that – an appeal. It is not a matter of a hearing at first instance of a serious offence as defined. Nor does what has occurred constitute a serious offence within the meaning of the Act. S.50(O)(1) provides that if a person has been charged with a serious offence, the VRT must hear and determine that serious offence. I would repeat that there is no suggestion that what occurred in the present case constitutes a serious offence.

In addition, the Australian Harness Racing Rules (“the AHRR”) do not assist Ms Logie. Apart from the basic loss of protest situation, AHRR 177 does allow for an objection to be lodged within seven days after the “all clear” is given, but AHRR 177(4) specifically states that this extension of time limits does not relate to an incident in a race.

The present attempted application to this Tribunal was made in the written form. It is on a standard appeal document pursuant to S.50K of the Act. It refers to the race in question, the marker post, and alleges an inconsistent decision of the Stewards. That is the basis of the appeal. It leaves no room for doubt but that the intended appeal is in relation to an incident in the race in question.

Given that the attempted appeal concerns the decision of the Stewards in relation to a particular race, and given the operation of S.50C(a), 50K and 50(O) of the Act, I find that this Tribunal has no jurisdiction to hear the application.

Mark Howard

Registrar, Victorian Racing Tribunal