30 May 2024

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**BRIAN GATH**

**Date of hearing:** 14 May 2024

**Date of decision:** 14 May 2024

**Panel:** Judge John Bowman (Chairperson) and Ms Heidi Keighran.

**Appearances:** Mr Nicholas Murray appeared on behalf of the Stewards.

Mr Tony Peacock represented Mr Brian Gath.

**Charge:** Australian Harness Racing Rule (“AHRR”) 163(1)(a)(iii) states:

1. A driver shall not
2. cause or contribute to any

(iii) interference

**Particulars:** The particulars of the charge being that approaching the first turn Mr Gath permitted KYLOAN QUEEN to shift in from a four wide position when insufficiently clear of WICHITA DANCE, resulting in that gelding being tightened for room checked inwards and contacting KEMPSEYS DELIGHT, resulting in driver Tina Ridis (WICHITA DANCE) becoming unbalanced in the sulky. In assessing penalty in accordance with the HRV Minimum Penalty Guidelines, Stewards took into account the low level of carelessness, consequential affects, Mr Gath’s driving frequency and relatively good prior record (April 2022 – approx. 150 drives). Mr Gath’s licence to drive in races was suspended for 2 weeks to commence midnight 21 March 2024.

**Plea:** Not Guilty

**DECISION**

Mr Brian Gath, you are appealing against a decision of the Stewards arising out of your drive of Kyloan Queen in Race 7 at Maryborough on 18 March 2024. The Stewards found that you had breached Rule 163 (1)(a)(iii) in that you had caused interference to Wichita Dance, driven by Ms Tina Ridis. The alleged interference occurred in the early stages of the race and when the field, having been dispatched by the mobile start, was on the turn out of the back straight and into the home straight. You had drawn 4, on the front row. Ms Ridis had drawn 11 on the second row behind you. It is alleged by the Stewards that you attempted to cross approximately one position into a gap just ahead of Ms Ridis.

As stated, the Stewards found that, in so doing, you caused interference to Ms Ridis. At the initial hearing, they asserted that you crossed when not sufficiently clear, causing her to become unbalanced and to be noticeably shifted or jolted in the sulky twice, in quick succession.

Having found that the breach had occurred, the Stewards imposed a penalty of suspension for 14 days. In this somewhat unusual case, you in fact served that period of suspension. Accordingly, this appeal is solely in relation to the conviction for the breach of the Rule.

Mr Nicholas Murray appeared on behalf of the Stewards. Mr Tony Peacock represented you. Submissions were made and the relevant video was shown several times. Indeed, it had been provided in advance.

We have considered that video, the documentation, including the Stewards’ interview after the race and the submission made by Mr Murray, Mr Peacock and yourself.

We are both comfortably satisfied that the Charge has been proven. In our opinion, you did move in when not clear. Your wheel, on the side of the rails, did move into her path, causing the interference.

In our opinion, the Stewards were justified in bringing the Charge and have proved it to our comfortable satisfaction. As stated, it is our opinion that the relevant video shows that you did move towards the rails when not clear of Ms Ridis, causing some interference and her to be jolted twice in the sulky. We do not accept that she was in any way to blame or that the horse to her inside played a role. In summary, we find that the appeal in relation to the alleged breach of the Rule is dismissed.

Mark Howard

Registrar, Victorian Racing Tribunal