22 July 2024

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**MICHELLE WIGHT**

**Date of hearing:** 11 July 2024

**Date of decision:** 11 July 2024

**Panel:** The Hon. Shane Marshall AM (Deputy Chairperson) and Dr Andrew Gould.

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

Ms Michelle Wight represented herself.

**Charge:** Australian Harness Racing Rule (“AHRR”) 149(2) states:

(2) A person shall not drive in a manner which in the opinion of the Stewards is unacceptable.

**Particulars:** Driver, Michelle Wight, was found guilty of a charge of an unacceptable drive under Rule 149(2). The particulars of the charge being that after shifting three wide approaching the 1800 metres and then continuing to attempt to advance forward three wide without cover, in the opinion of Stewards it was then unacceptable to continue to drive forward three wide passing the 1200 metres when it was unlikely a more forward position closer to the marker pegline was attainable. In electing to remain three wide without cover, Ms Wight continued to drive “Time To Torque” forward to the outside of the leading division passing the 1200 metres until the 800 metres, failing to provide the filly sufficient respite. Driving tactics which in the opinion of Stewards were the main contributing factor for the filly finishing in sixth place beaten 45.6 metres. Ms Wight’s licence to drive in races was suspended for three weeks. In assessing penalty in accordance with the HRV Minimum Penalty Guidelines, Stewards considered Ms Wight’s relatively good record, driving frequency and the circumstances of the offence. Ms Wight was cautioned for her conduct during this inquiry. Post-race veterinary examination revealed no apparent abnormalities.

**Plea:** Not Guilty

**DECISION**

1. Ms Michelle Wight is a Grade A licensed trainer and driver of harness racing horses. On 6 June 2024, she drove “Time To Torque” in Race 7 at Stawell. Time To Torque is a three-year-old filly.
2. After the race, Stewards of Harness Racing Victoria ("HRV") interviewed Ms Wight concerning her drive. After discussing with Ms Wight the circumstances surrounding her drive in that race, HRV Stewards charged her under Australian Harness Racing Rule ("AHRR") 149(2).
3. The particulars of the Charge state that, after Ms Wight shifted three wide approaching the 800 metre mark, she continued to advance forward without cover. The particulars added that, in the opinion of the Stewards, it was unacceptable, for her to then continue to drive in a three-wide position from the 1200 metre mark until the 800 metre mark and, in doing so, she failed to give her filly sufficient respite. The Stewards considered that Ms Wight's driving tactics were the main contributing factor to the filly finishing in sixth place, some 45.6 metres behind the winning horse.
4. Ms Wight said that the filly travelled best when searching for the lead. Her two options at the 800 metre mark were to drop back to the rear or drop back, still three wide, to the wheel of the horse in the death seat. The option of continuing three wide at the 800 metre mark was obviously not going to result in the filly finishing in the placings. Given that this was the case, the other options were worth pursuing, especially the option of easing back to the wheel of the horse in the death seat in an attempt to give the filly some respite. At least this is a view that was open to the Stewards.
5. As the Tribunal stated in the decision of Mr Ashley Manton on 1 February 2024, the test for determining whether AHRR 149(2) has been breached is whether the opinion of the Stewards was open to them. It is not for the Tribunal to say whether the opinion was the more favourable one than the contrary opinion. One may disagree on the balance of the decision but the way the sub-rule is framed places the onus on the appellant driver to show that, in all the circumstances, the opinion of the Stewards was not one that was open to them.
6. In our view, the opinion of the Stewards was open to them. By continuing to keep the filly three wide from the 1200 metre mark to the 800 metre mark, it was clear at that stage that the filly had spent too much energy already in that position and was not going to advance her position in the race by continuing to apply pressure to the leaders. Other options were open which, if tried, would not have been considered unreasonable in the circumstances, given that continuing to advance three wide was obviously going to end badly, with the filly tiring over the concluding stages.
7. In all the circumstances, we dismiss the appeal.

**PENALTY**

1. The penalty applied was the minimum penalty according to the HRV Penalty Guidelines. Ms Wight accepted that the penalty was the minimum available under the penalty guidelines and did not advance any persuasive reasons for the Tribunal to go below the minimum penalty.
2. The appeal in relation to penalty is also dismissed. The three week suspension shall commence at 11.59 pm on Friday, 12 July 2024.

Kathleen Scully

Assistant Registrar, Victorian Racing Tribunal