

Racing Appeals & Disciplinary Board

Media Release

22 May 2017

Racing Appeals & Disciplinary Board

Date of Hearing: Monday, 22 May 2017
Venue of Hearing: Law Institute of Victoria, 470 Bourke Street, Melbourne
Panel: Mr. Shane Marshall (Chairman), Mr. Phillip Davies and Mr. Peter Lee
Appellant: Mr. Robert Smith
Town: Loch
Track: Lang Lang Coursing Track
Date: 13 June 2016
GAR No: 99 (3)(d)(g)
Matter: In that Mr. Smith did enter and remain at a place where greyhounds are trained, kept or raced or where a trial or any type of greyhound training was being conducted.

REPORT:

The RADB received an appeal lodged by Mr. Robert Smith against a decision handed down by the Greyhound Racing Victoria Stewards on 15 March 2016.

The Stewards found Mr. Smith guilty as charged and pursuant to GAR 100, recommended the penalty imposed by the RADB on 7 December 2015, to start again from 13 June 2016.

Mr. Robert Smith represented himself at the appeal.

Mr. Marwan El-Asmar GRV Managing Principal Lawyer represented the Stewards Panel.

Mr. James Absalom and Mr. John Clay appeared as witnesses via telephone.

DECISION:

1. This matter is an appeal under S83J of the Racing Act 1958 (Vic) by Mr. Robert Smith against a decision made under the Greyhound Australasia Rules ("GAR") made by the Stewards of Greyhound Racing Victoria ("GRV").
2. The Stewards found Mr. Smith guilty of breaching GAR 99 (3) (d) and (g). So far as is material those provisions provide as follows:-

"(3) unless the Controlling Body in special circumstances otherwise directs, a person who has been disqualified ... is not –

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(d) to enter the premises of a club on a day when a meeting, qualifying trial, satisfactory trial, other trial, Event or greyhound training of any type is occurring or would be expected to occur regardless of whether the meeting, qualifying trial, satisfactory trial, other trial, Event or training is actually occurring at that time.

(g) to enter or go or remain on, at any time, any place where greyhounds are trained, kept or raced.”

3. Having found Mr. Smith guilty of breaching GAR 99 (3) (d) and (g), the Stewards imposed a penalty of an extension of the commencement of his disqualification to 13 June 2016, the date of the offence. That extension of the disqualification follows automatically from the guilty finding as a result of GAR 100.

Background facts

4. On 7 December 2015, the Board disqualified Mr. Smith from being a registered public trainer, owner and breeder as a result of finding him guilty of six charges concerning events which took place at the Tooradin Trial Track on 23 December 2014 in the context of “live baiting”. The Board disqualified Mr. Smith for 10 years effective from 13 February 2015, with 5 years being suspended.
5. Mr. Smith is not the subject of a decision by GRV which would enable him, whilst disqualified, from doing any of the acts referred to in GAR 99 (3).
6. On 13 June 2016, Mr. Smith, accompanied by his partner, Ms. Bailey and a neighbour drove a vehicle through an open gate to the premises of the Lang Lang Greyhound Coursing Track (“the track”) and parked in the car in the car park area for the Track. This occurred at about 11.00am. At the time several registered trainers and club officials had been trialling and training greyhounds at the Track.
7. The car park area is adjacent to the track and is part of the premises of the Club which conducts trialling at the Track. There is a fence and a gate between the car park and the Track. The only barrier between the Track and the car park is a low fence.
8. The vehicle driven by Mr. Smith towed a two birth greyhound transport trailer. Ms. Bailey took a greyhound from the trailer and walked it to the trial track and gave the greyhound a run. Mr. Smith got out of the car, stood in the car park and watched Ms. Bailey’s greyhound and others running at the Track. Whilst in the car park, Mr. Smith had a conversation with Mr. Clay, the manager of the Track. About 10 to 15 minutes later, Ms. Bailey returned to the vehicle and placed the greyhound in the trailer. Mr. Smith then drove the vehicle out of the car park via the gate through which he had earlier entered.
9. Mr. Smith told a Stewards investigation, into the events at the Track on 13 June 2016, that he had driven into the car park because the gate had been left open. He said he drove because Ms. Bailey did not like driving with the trailer attached to the vehicle.

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10. Mr. Smith pleaded not guilty before the Stewards. He said that there was no official trialling being conducted on 13 June 2016. He also said that the Club did not control the car park on that day.

Considerations

11. For reasons which follow, we consider that the decisions of the Stewards was the correct one in the circumstances. It is apparent that what was occurring at the track could at least be described as "greyhound training of any type". Therefore Mr. Smith has entered the premises of the Club which controls the track on a day in which greyhound training was occurring at the Track. On the fence near the gate to the car park there is a clear sign in capital letters which reads:- "LANG LANG COURSING TRACK". Therefore it is clear that Mr. Smith breached GAR 99 (3)(d).
12. Further, on 13 June 2016, the premises of the Club was a place at which greyhounds were being trained. By entering the car park and going onto land occupied by the Club, Mr. Smith was also in breach of GAR 99 (3) (g).
13. Having regard to the foregoing, Mr. Smith's appeal against the decision of the Stewards lacks merit. He admitted to the Stewards in their investigation that he only drove into the car park because the gate was open and that normally he would stop at the gate, get out of the car and go for a walk while his partner exercised a greyhound.
14. Mr. Smith submitted that he should not have been found guilty because Mr. Clay did not order him to leave the car park. Whether or not a Club official ordered him from premises being used by the Club has no bearing on whether a breach of GAR 99 (3) (d) or (g) has occurred.
15. Mr. Smith submitted that no greyhound training was occurring on 13 June 2016. That is incorrect there is evidence from a trainer, Mr. Gregory Graham, that he was trialling his greyhounds on that day. There is also evidence from Mr. Absalom, the secretary of the Club which runs the Track, that often Club committee members trial their own dogs on Mondays, and that this is what occurred on Monday 13 June 2016. Mr. Smith also submitted an entitlement to be in the car park as it is Crown land. However it is Crown land which is occupied by the Club which conducts activities on the track, including the trialling and training of greyhounds. In any event given the wording of GAR 99 (3) (g) it does not matter whether training was occurring at the time. The same applies to GAR 99 (3) (d).
16. Mr. Smith submitted that there is no evidence that the measurement of the Track has been certified under GAR 43(2). The lack of certificate of measurement does not deny its existence as a track. Mr. Smith also submitted that there is no designated or marked car park and that the area used as a car park is unmarked bushland. The fact that no car park lanes are clearly marked does not stop the area being a car park. That is what it was used for. It is part of the area used by the Club. Mr. Smith should not have entered it. Where his vehicle entered there was a prominent sign saying "Lang Lang Coursing Track".

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17. We dismiss the appeal. We affirm the decision of the Stewards that the effective five years disqualification imposed by this Board on 7 December 2015 is to be treated as having commenced on 13 June 2016.

.....End.....