

## DECISION

*Racing Integrity Act 2016, sections 252AH, 252BM*

<b>Review application number</b>	RAP-57	
<b>Name</b>	Tessa Townsend	
<b>Panel</b>	Mr Kerry O'Brien (Chairperson) Ms Julie Overell (Panel Member) Ms Lyndsey Hicks (Panel Member)	
<b>Code</b>	Thoroughbreds	
<b>Rule</b>	Australian Rules of Racing 131(a) <i>A rider must not, in the opinion of the Stewards engage in careless, reckless, improper, incompetent or foul riding;</i>	
<b>Penalty Notice number</b>	PN-008982	
<b>Appearances &amp; Representation</b>	Applicant	Self represented
	Respondent	Kate Lemay-Robbins
<b>Hearing Date</b>	16 October 2023	
<b>Decision Date</b>	16 October 2023	
<b>Decision</b> <i>(delivered ex tempore)</i>	Pursuant to 252AH(1) of the Act, the decision of the Panel is to confirm the finding of guilty of the offence of careless riding and to vary the decision in relation to penalty by substituting a reprimand for the penalty of six day suspension.	
<b>Panel Penalty</b>	Reprimand	
<b>Case References</b>	<i>Briginshaw v Briginshaw &amp; Anor</i> 1938 60 CLR 336	

## Reasons for Decision

- [1] Ms Tessa Townsend is an apprentice jockey. On the 6th of October 2023, following a Stewards Inquiry into her ride on the horse, Sir Maximus in Race 5 at Cluden Park at Townsville, Ms Townsend was charged with an offence against Rule 131(a) of the Australian rules of Racing. That rule provides, inter alia, for an offence of careless riding.
- [2] Ms Townsend pleaded not guilty to the charge but was found guilty by the Stewards and received a penalty of six days suspension of licence, operational from midnight on the 14 October 2023 until midnight on the 20 October 2023.
- [3] Pursuant to section 252AB(1) of the *Racing Integrity Act 2016*, Ms Townsend now makes application to this Panel for a review of the Stewards decision as it relates to both the determination of guilt and to the penalty imposed. The particulars of the careless riding charge levelled against the Applicant were that approaching the 950 metre mark she allowed her mount (Sir Maximus) to shift ground under riding when insufficiently clear of Artiebe, who was racing to her inside with the results that the rider of Artiebe was forced to take hold to avoid heels.
- [4] In her Application for Review the Applicant asserts that she did not breach AR131(a) as “My horse did not come in and impede the run of the inside horse Artiebe”. She maintains that the inward momentum of her mount was marginal and in her opinion, did not impede the run of Artiebe.
- [5] The rider of Artiebe, Jockey Smith, was, the Applicant asserts, trying to restrain his horse from over racing, and getting onto the heels of the front runner Bakerfield “which made the situation a lot worse than actually unfolded”.
- [6] The Stewards heard evidence from the rider of Artiebe Jockey Smith, he said that around the 950 meter mark, as he was getting his mount into rhythm, he had been tightened up for room by the outside runner, that being the Applicants horse, moving in.
- [7] In her evidence before the Stewards, the Applicant said that she had been riding “competitively and tight” and disputed the claim that that she had impeded the running of Jockey Smith’s horse.
- [8] The account which she gave to the Stewards is substantially repeated before this panel.
- [9] The Applicant maintains that although she subsequently crossed to the front of Artiebe, at the 950, she had maintained her line and did not impede in the manner alleged.
- [10] This Panel, of course, must form its own opinion of the matter. It is accepted that the Respondent bears the responsibility of proof, that is, the responsibility of establishing the charge that is brought against the Applicant.
- [11] The question is whether this Panel is satisfied to the requisite standard that the Applicant rode her mount in a careless manner in the incident the subject of the charge. Given that the charge involves the prospect of suspension, the requirement of proof should accord with the principles enunciated in cases such as *Briginshaw V Briginshaw & Anor*<sup>1</sup>. A finding adverse to the Applicant should only be arrived at on evidence that is both clear and cogent.
- [12] The Panel has had the opportunity to review the race footage that was before the Stewards. Unfortunately, that footage does not contain any front on or rear vision of the critical part of the race.

---

<sup>1</sup> *Briginshaw V Briginshaw & Anor* 1938 60 CLR 336

It is a matter of some surprise that that should be so at a major provincial racecourse such as Cluden Park in Townsville

- [13] The absence of such footage does not assist the Respondent in its task of establishing the guilt of the Applicant, nor has it made the task of this Panel any easier.
- [14] Having conducted our own review of the footage the Panel, make the following findings in relation to the critical part of the race.
- [15] Firstly we are not satisfied that Jockey Smith was compelled to take hold of his mount out of concern for improving onto the heels of the front runner Bakerfield.
- [16] We are satisfied however that he did take hold because of tightening from the Applicants horse Sir Maximus to his outside moving in.
- [17] We are satisfied that the Applicant then, however endeavoured to retrieve the situation, when trying to correct her mount by turning Sir Maximus' head to the outside.
- [18] Thereafter, we are not satisfied that her actions contributed, continued to apply pressure to the riders on her inside.
- [19] We also note the evidence given by Jockey Scofield, the rider of the horse Listen Listen who said that his horse had been over racing, a factor which in the circumstances made the situation look worse than it really was.
- [20] The task of this Panel has not been assisted by the evidence of further camera angles however, these findings lead us to the view that although the Applicant was guilty of an offence of careless riding in shifting ground when insufficiently clear of Artiebe, there were significant features of so-called mitigation that existed in this case and in particular, we have regard to her efforts to alleviate the situation by endeavouring to steer her horse outwards.
- [21] We consider in all the circumstances that the Applicant's conduct does constitute careless riding, though in the low range. We consider, however, that the mitigating circumstances are such as to warrant a penalty lesser than one of a suspension.
- [22] Pursuant then to section 252AH(1) of the *Racing Integrity Act* the decision of the Panel is to confirm the racing decision in relation to the finding of guilt of the offence of careless riding and to vary the decision in relation to penalty by substituting a reprimand for the penalty of six days suspension.