

TASMANIAN RACING APPEAL BOARD

Appeal No 04 of 2019-20

Panel:	Kate Brown (Chair) Rodney Lester (Member) Wendy Kennedy (Member)	Appellant:	Ben Woodsford
Advisor:	Mike Styles		
Appearances:	Roger Brown (on behalf of the Stewards) Anthony O'Connell (on behalf of the appellant)	Rules:	AHRR 165 (1)(b)
Heard at:	Launceston	Penalty:	Suspension for 3 race dates
Date:	28 November 2019	Result:	Appeal against conviction dismissed. Appeal against penalty varied to a fine of \$500 (half of which is suspended on the condition that Mr. Woodsford not reoffend against the rule for a period of 12 months).

REASONS FOR DECISION

1. This appeal was heard on the 28th of November 2019. The Racing Appeal Board had the benefit of the assistance of Mr Styles, the Harness Racing advisor. The appeal was against both conviction and penalty. The Board had regard to all material before it and the submissions of the party during the appeal.

2. The appellant was charged with breaching AHRR 165 (1)(b) which provides:

165. (1) *From the start through the first turn, and until reaching the next straight, a driver shall -*

(a).....;

(b) not move the driver's horse towards the inside running line unless the rear of the driver's sulky is at least one metre clear of the extended front legs of the horse racing in the next position closer to the inside running line.

in that as the driver of *Drifting Away* when running into the first turn he allowed his horse to move down and tightened the running of *Alta Surreal* which was driven by Hannah Vandongen. Stewards asserted that this caused Ms Vandongen to grab hold and as a consequence she relinquished her position.

3. The appellant pleaded not guilty. At the enquiry his evidence was that he believed he “had the upper hand of the momentum ... to be in the front” and that he “wouldn’t have been far off a metre clear” when he crossed.
4. At the hearing the appellant’s advocate submitted that by the time the appellant was in Ms Vandongen’s running line he was sufficiently clear. Of course, while this of some weight in terms of culpability and penalty it is not relevant to guilt of the charge and in fact infers to an extent a concession that at the time of crossing Mr Woodsford was not sufficiently clear.
5. The Board reviewed the race film and considered the evidence at both the enquiry and the appeal as to the circumstances of the crossing down the track by *Drifting Away*. The Board was satisfied that the appellant moved his horse towards the running line when less than a metre clear of Ms Vandongen driving *Alta Surreal*.
6. With respect to penalty the appellant’s advocate submitted that a three race meeting penalty was too severe in the all the circumstances, noting particularly that Mr Woodsford was a junior driver who had not previously breached this rule and that a suspension would take him out of contention in the Young Bloods driver challenge. He also argued that the decision of Yole (No. 21 of 2017/18) was distinguishable on the basis that there was actual interference unlike in this matter.
7. Stewards submitted that the penalty was appropriate bearing in mind the range of penalties imposed for such offending the severity of this particular offending. It was submitted that Mr Woodsford may be a junior driver but that at the time the offending occurred he had over 400 drives. Stewards took the view that the fact that no actual interference eventuated was only attributable to Ms Vandongen’s experience and that she crossed marginally inside the markers.
8. The Board accepted that the breach of the one metre zone was minimal, the track is known to be particularly tight and that no actual interference was caused, all making this a breach at the lower end of the range. The Board took into account the consequences to the Appellant of being out of the Young Bloods series should he receive a suspension. The Board was somewhat concerned that Stewards had treated the plea of not guilty as an aggravating factor, rather than starting from a point at which a plea of guilty is mitigating.
9. The appeal against conviction was dismissed and against penalty upheld and the penalty varied to a \$500 fine, with half of that to be suspended for 12 months on condition that the appellant not offend against that rule within that period. The appellant will forfeit 25% of the prescribed deposit and pay 25% of the costs of the preparation of the transcript for the appeal.