

## TASMANIAN RACING APPEAL BOARD

**Appeal No. 09 of 2023-24**

<b>Panel:</b>	<b>Ms Kate Cuthbertson (Chair)</b>	<b>Appellant:</b>	<b>Mr Nathan Gittus</b>
<b>Adviser:</b>	<b>Mr Robert Higgins</b>		
<b>Appearances:</b>	<b>Mr Jeremy Gleeson (on behalf of the Stewards) Ms Susan Gittus (on behalf of the Appellant)</b>	<b>Rules:</b>	<b>GAR 124(1) Failing to pursue</b>
<b>Heard at:</b>	<b>Stewards Room Elwick Racecourse 6 Goodwood Road Glenorchy TAS</b>	<b>Penalty:</b>	<b>LIGHTNING JEWEL stood down for a period of 28 days at Hobart and until the completion of a satisfactory trial</b>
<b>Date:</b>	<b>21 November 2023</b>	<b>Result:</b>	<b>Upheld</b>

### REASONS FOR DECISION

1. This appeal concerns a race that occurred on 5 October 2023 at the Hobart Greyhound Racing Club, Race 1, the Graeme Moate Grade 6 over 461 metres.
2. During the course of the event LIGHTNING JEWEL finished second by 4 and a quarter lengths behind the winner JACKPOT JEWEL. JACKPOT JEWEL finished very strongly. Following the race, the Stewards held an inquiry and were particular concerned regarding LIGHTNING JEWEL's racing over the concluding stages.
3. Stewards commenced the inquiry conceding that LIGHTNING JEWEL was starting to tire and their preliminary view that there was a period for two or three strides where the greyhound appears to ease and then picks up again and runs a little harder towards the line. They advised the appellant that was the impression that Stewards wanted to talk to the trainer about. Ms Gittus represented the trainer's interests at that inquiry. Ms Gittus told Stewards on the night that she was of the opinion that LIGHTNING JEWEL had tired and that she had gotten wobbly as she tired, but she did not concede that she had eased.
4. Films were viewed and Stewards particularly focused on the portion of the race at the times 19.40.52-19.40.54. Stewards asked Ms Gittus whether she conceded there was a notable change in LIGHTNING JEWEL's gait. Ms Gittus conceded that LIGHTNING JEWEL's stride got slower, but she did not agree that she saw her pick up the pace again. Ms Gittus highlighted that it was LIGHTNING JEWEL's first run over 460 metres in a race and the previous week was the first time she had trialled over that distance.
5. Stewards put forward that they believed the greyhound did have a charge to answer under GAR 124 for failing to pursue, noting that it the operation of the rule was subject to GAR 125 which was not relevant in this case as the record indicates that the greyhound underwent a post-race veterinary examination and was not found to be carrying any injury. It was the Stewards opinion that on the

night the greyhound had visibly eased. Stewards indicated that they had had another look at the race footage and that they genuinely believed the greyhound did speed up again or stretch out a bit harder one or two strides before the line after easing.

6. Ms Gittus indicated a not guilty plea to that charge, highlighting again that it was a young greyhound, described as a baby, who was struggling out on the line a little bit. She also pointed out that the greyhound had been running a sufficient time, it had had two starts over the shorter distance, but she reiterated that she believed that it had just tired.
7. Following an adjournment, Stewards advised that they could sustain the charge as in their opinion the greyhound had eased over the concluding stages of the race. They imposed the mandatory period of suspension pursuant to GAR 127 which for a first offence is a stand down for a period of 28 days and the completion of a satisfactory trial at Hobart only. Ms Gittus was advised of the right of appeal.
8. Subject to GAR 125, where in the opinion of Stewards a greyhound fails to pursue the lure during an event the Stewards must impose a period of suspension in respect to the greyhound pursuant to Rule 127, which is to be recorded by them as part of the identification record. Importantly for these purposes failing to pursue is defined in the Rules as meaning when a greyhound turns its head, visibly eases or fails to pursue the lure with due commitment during the running of an event. As is apparent from the matters set out above, Stewards relied on the greyhound visibly easing in order to form their opinion that the greyhound had failed to pursue.
9. During the course of this appeal both parties essentially repeated the same arguments raised during the course of the inquiry. Ms Gittus conceded that the greyhound had tired and that it looked like it had slowed down, but in her view, it had continued to tire. Ms Gittus reiterated that she did not believe that the greyhound appeared to get faster at any point during the race. Stewards again conceded that the greyhound had tired and that it was entitled to do so, however they maintained that the greyhound had changed its gait, slowing up and in the course of doing that appeared to be up in the air more before regaining its natural gait. Stewards described this as occurring over one or two strides or two bounds.
10. Given the nature of the Rule, which is grounded on the opinion of Stewards, the appellant is required to successfully challenge the professional opinion of Stewards which is based on their assessment of the race. Due recognition has to be given to their expertise and capacity to view the films and consider the overall race. It is a matter for the appellant to satisfy the Board that Stewards could not have reasonably reached their ultimate conclusion in order to be successful in the appeal.
11. In the Board's view, the appellant has discharged that burden in this case. It is the Board's view that the matters that are referred to by Stewards are very subtle, it is extremely difficult, even viewing the films several times and from different angles and speeds, to really identify anything other than a slowing down of the greyhound consistent with it tiring. As noted by Stewards, that is something that the greyhound is entitled to do and given its background, as a young greyhound only starting out racing at this distance, that is completely understandable. It is notable that although it finished a number of lengths behind the winning greyhound, the third placed greyhound was six and three-quarter lengths behind LIGHTNING JEWEL, so it would seem it had run a respectable race in the circumstances.
12. Having viewed the film a number of times with the assistance of an adviser, the Board was unable to detect anything that would cause it to form the view that the greyhound had changed its gait in such a way to demonstrate that its slowing down was other than a result of tiring as opposed to visibly easing and then changing its gait at the concluding stages of the race.
13. The appeal is upheld and the decision of Stewards is quashed.
14. As the decision of the Stewards has been quashed, the Board orders pursuant to s 34(2)(e) of the *Racing Regulations Act 2004* that the appellant's prescribed deposit be refunded in full.

**DATED: 22 JANUARY 2024**