TASMANIAN RACING APPEAL BOARD

Appeal No 15 of 2017/2018

Panel:	**Kate Brown (Chair)** **Rod Lester** **Wendy Kennedy**	**Appellant:**	**Glenn Stevenson**
Appearances:	**John Zucal on behalf of the Stewards** **Anthony O'Connell on behalf of the Appellant**	**Rules:**	**Australian Racing Rule 178**
Heard at:	**Launceston**	**Penalty:**	**4-month disqualification**
Date:	**23 February 2018**	**Result:**	**Appeal Upheld, Penalty varied to a 2-month disqualification**

REASONS FOR DECISION

1. On the 23 February 2018 the Tasmanian Racing Appeal Board heard an appeal by Glenn Stevenson against a penalty imposed on the 1st of February 2018 to disqualify him for a period of 4 months for a breach of AR 178. The breach was alleged to have occurred on the 6th of December 2017 when *Killin Falls* was presented to race with a prohibited substance (caffeine) present in its system.

2. The appeal proceeded against penalty only and there was no dispute about the presence of the substance or the level of the reading. It was common ground that the leading authority regarding a breach of AR 178 was that of Luttrell 18 of 2014/15.

3. The appellant, through his advocate, described the appellant as a battling trainer with some 10 years' experience in the industry but who had only lately had any real success with *I'm Wesley*. His financial situation was difficult and it was put that a disqualification robbed him of any opportunity to earn an income and would place pressure on his family. It was submitted that if the disqualification stood then it was very unlikely that *I'm Wesley* would return to his stable in the future. The appellant's advocate submitted that the Luttrell case was distinguishable on the basis of the very high reading which, in that case, appeared to have had an effect on the horses performance. This was a low reading and there was no evidence of any effect on performance.

4. In response, the Stewards submitted that the return of a swab positive for a prohibited substance should always be considered a serious matter, and that period of disqualification should flow unless there are special circumstances. It was argued that the circumstances of the appellant and the offending on this occasion were not so special as to warrant a departure from that general proposition. They relied on the lax security which had been in place at the appellant's stable. However, it was conceded that the reading was low in this case and accepted that the appellant had

pleaded guilty and been forthright throughout the proceedings. They did not contend that the appellant had administered the caffeine or was aware of its source, therefore accepting that it was a negligent rather than a deliberate breach. They accepted the appellant had subsequently stepped up security at his stables.

5. After considering all the evidence and the submissions of the parties, the Board determined to reduce the penalty from four to two months disqualification. The Board accepted the submission of the Stewards that a period of disqualification ought normally be imposed, but considered that Stewards had given insufficient weight to the mitigating factors present in this case in determining that four months was an appropriate period of disqualification. The Board notes that the evidence in Luttrell pointed to deliberate administration of caffeine in the 24 hours prior to the race by a stable employee whose credentials Mr Luttrell had failed to check, that Mr Luttrell did not have this appellant's unblemished record, and in that case the outcome of the race was almost certainly affected. The absence of those aggravating factors in this case justify a greater "discount" than Stewards applied, in the view of the Board.

6. The appeal is upheld, the penalty varied to a two month period of disqualification.

7. Accordingly, pursuant to s.34(2) of the Act, the Board orders that fifty per cent of the appellant's deposit will be retained, with no transcript costs payable.