

TASMANIAN RACING APPEAL BOARD

Appeal No. 17 of 2018/19

Panel:	Kate Brown (Chair) Rod Lester (Member)	Appellant:	Bulent Muhcu
Appearances:	Stephen Shaw (on behalf of the appellant) Scott Quill (on behalf of the Stewards)	Rules:	AR 131 (a) - Careless Riding
Heard at:	1 Civic Square LAUNCESTON, TAS	Penalty:	Suspension for one (1) race date
Date:	15 May 2019	Result:	Appeal against conviction: dismissed Appeal against penalty: varied to reprimand

REASONS FOR DECISION

1. On 25 April 2019 the appellant was convicted of careless riding and suspended for one race meeting. He appealed both conviction and penalty. The particulars of the charge were that:

“as the rider of Bullion Fringe you committed your mount to shift out approaching the 100 m when insufficiently clear of Stormont which was tightened for room and restrained to avoid the heels of Pira Noona“

2. The appellant pleaded not guilty. In support of that plea he noted the following:
 - that the run was his to take;
 - that the restraint required by *Stormont* was on was only partially attributable to his shift out and it was partially attributable to *Pira Noona* shifting in;
 - that if there had been a run available to *Stormont* it was taken by both his own shift out and the shift in of *Pira Noona*;
 - that he was a length and a quarter ahead of *Stormont* when *Stormont* restrained;
 - that *Stormont* was at no point required to check but only to restrain;
 - that he was going significantly faster at all material times than *Stormont*.

3. In response, Stewards argued that the appellant had run into a dead end and saw a gap, then shifted out when not fully clear, when the rule of thumb is that when shifting the rider should be two lengths clear. They conceded that the level of culpability was low.
4. The appellant conceded that he was not quite two lengths clear, but responded that he would have been in another stride and had *Pira Noona* not shifted in at exactly the same time he shifted out.
5. The Board considered all the material before it and reviewed the race film carefully. It considered the appellant's submissions, however considered ultimately that he had taken insufficient care, and was guilty of the charge. The Board accepted (as the appellant had conceded) he was not two length clear when shifting in, and determined he was primarily responsible for the need for Mr McCoull (on *Stormont*) to restrain. It also took into account that the restraint by Mr McCoull was to avoid the heels of *Pira Noona* rather than *Bullion Fringe*. The appeal against conviction was dismissed.
6. With respect to the appeal against penalty the Board had regard to essentially the same factual submissions that had been put to it around culpability; that is, that there had almost been a run available to *Bullion Fringe*, and that *Pira Noona* had contributed to the need for *Stormant* to restrain by shifting in slightly as *Bullion Fringe* took the run. The Board took the view that the culpability of the appellant was somewhat lower than it had been characterised as by stewards, and also considered Steward's had given insufficient weigh to the appellant's record. The appeal against penalty was upheld and the penalty was varied to a reprimand only.
7. Pursuant to s.34 of the *Racing Regulation Act 2004*, the appellant will forfeit 25% of his deposit on the appeal and pay 25% of the transcript costs.