

TASMANIAN RACING APPEAL BOARD

Appeal No. 28 of 2017/18

Panel:	Kate Brown (Chair) Wendy Kennedy (Member) Rod Lester (Member)	Appellant:	Paul Hill
Appearances:	Anthony O'Connell (on behalf of the Appellant) Adrian Crowther (on behalf of the Stewards)	Rules:	AHRR 149 (1)
Heard at:	Office of Racing Integrity 1 Civic Square Launceston, Tasmania	Penalty:	8 race-date suspension
Date:	31 July 2018	Result:	Dismissed

REASONS FOR DECISION

1. On 31 July 2018 the Tasmanian Racing Appeal Board heard an appeal from Mr Paul Hill. The appellant was convicted of failing to give his horse full opportunity to win at a harness meeting at Launceston on 24 June 2018 and appealed against both the conviction and the eight race meeting suspension imposed as a result. The particulars of the charge were that the appellant had breached AHRR 149(1) by persisting

"...with an extended unsuccessful challenge for the lead from the 1900 metre mark to the 1450 metre mark and after doing so have then again raced on terms with an [sic] advanced of the leader from the 1150 metres around the third turn and down the back straight until the 500 metres and at no stage do we say did you give your drive, attempt to give your drive any respite. You have failed to take the reasonable permissible measures which were open to you to attempt to ease pace of the race at any stage."

2. The Board viewed the film, read the transcript and other material and heard the submissions of the parties. At the inquiry the appellant's case was that on the previous occasion he was challenging Ms Gangell on *Demonstrative*, she had handed up the lead, and he thought that she would do the same on this occasion.
3. At the appeal the appellant relied on the decision of *Honan* (NSW Harness Racing Appeals Tribunal, 26 October 1983) to submit that AHRR 149(1) does not permit the mere substitution of the stewards view, or punish a mere error of judgement on the part of the driver. It was further contended

that *Regal Major* does better when he's allowed to lead, and that the appellant continued his challenge because he believed Miss Gangell would hand up as she had done in a race a week previously.

4. Essentially the matter turned on when the challenge started and finished and whether that was reasonable.
5. In response stewards presented a considered breakdown of the race and the appellant's drive noting particularly the following:
 - When the appellant launches Gangell immediately responds;
 - The appellant uses the whip when she tells him that she is not handing up;
 - That *Regal Major* is not difficult to restrain;
 - That Gangell made it very clear over an extended period that she wouldn't hand up and that even after she told him the appellant persisted for another 20 seconds;
 - The form of *Regal Major* does not support the contention that he would be able to serve it up to the likely leader for half the race;
 - That the appellant did not restrain until the back straight;
 - That it was not a split second decision on behalf of the appellant as it was in Honan, it was a considered course of action which persisted over some 500m.
6. With respect to penalty it was submitted by steward's that the appellant had been suspended previously under this rule at Devonport in 2016 (and received a 10 race meeting suspension); and that given that this offence went to the integrity of the industry, the penalty needed to act as both a specific and general deterrent. Steward's further submitted that the range of penalties for an offence of this nature was 6 to 12 race meetings.
7. The Board accepted the submissions and analysis of Stewards as to both conviction and penalty. The appellant was a senior driver, with a great deal of experience, and the breach was not a momentary one, but sustained over a significant portion of the race. The Board accepted that to continue the challenge was unreasonable in all the circumstances, and in the appellants own experience *Regal Major* would not have been able to sustain that effort. It was noted that on the previous occasion the appellant had been convicted of this charge he received a 10 race meeting suspension.
8. The appeal is dismissed. The Board ordered that the appellant forfeit 50% of prescribed deposit and pay 50% of the costs of the preparation of the transcript.