

APPEAL PANEL OF RACING NEW SOUTH WALES

THE APPEAL OF MR ROBBIE DOLAN

Appeal Panel: **Mr R. Beasley SC – Principal Member; Mrs J Foley; Mr J Nicholson**

Appearances: **Mr Wade Birch, Deputy Chairman of Stewards**
The Appellant

Date of Hearing: **4 September 2020**

Date of Reasons and Orders: **4 September 2020**

REASONS FOR DECISION

Mr R Beasley SC, Principal Member

1. On 28 August 2020, Racing NSW Stewards charged licensed jockey Mr Robbie Dolan with a breach of the careless riding rule (AR 131(a)) following his ride on the horse “Without Conviction” in race 8 at the Gosford Race club meeting that day. The particulars of the alleged breach were that Mr Dolan permitted his mount to shift out approaching the 100m when insufficiently clear of “Can I Rock”, ridden by Kathy O’Hara. As a consequence of this, it was alleged that Can I Rock was carried out towards the heels of Kootaloo, and had to be checked, and lost its rightful running.
2. After some hesitation, the appellant pleaded not guilty to the charge. He was ultimately found guilty. Stewards assessed the carelessness to be of a “medium” grade. They consider that as a result of the carelessness, Can I rock lost its rightful running. Applying the Careless Riding Penalty Template, they imposed a penalty of a 5-meeting suspension.
3. Mr Dolan appealed to the Panel in relation to both the finding of the breach of the rule, and the penalty imposed. Prior to the appeal being heard however, he changed his plea to guilty, and sought only a reduction in penalty. He represented himself on appeal,

while the Stewards' were represented by Mr W Birch, the Deputy Chairman of Stewards.

4. The appellant submitted that his carelessness should be assessed as low grade, not medium. He agreed, as he did at the Stewards' Inquiry, that he did not look to see if a horse was to his outside, and "did not realise there was one behind me": T1 L49. He agreed he shifted considerably ("I kind of let it slide out": T2 L51), but says he did not make contact with Kathy O'Hara's horse. He also submitted that rider Glyn Schofield on Kootaloo contributed to the interference suffered by Ms O'Hara.
5. Mr Birch submitted that the failure to look, and the extent of the shift, put the carelessness here clearly in the "medium" category. The Panel agrees. While the carelessness here is probably at the lower end of medium, we are nevertheless comfortably satisfied that the failure to check for another horse, and the extent of the shift, clearly establish this as medium grade carelessness. As said many times before, in relation to AR 131(a), the consideration of safety is paramount.
6. The only other matter for the Panel to consider is whether the Appellant should get a discount for his plea today. Ordinarily, a plea to careless riding at a Stewards' Inquiry would warrant a 10% discount. The appellant pleaded not guilty at the Inquiry, and only changed his plea yesterday. While there are probably arguments for and against, the Panel is prepared to apply a measure of mitigation for the appellant's plea today. We do so because we do not want to discourage riders who, upon reflection, consider they should abandon a plea of not guilty to breach of AR 131(a). We also recognise that sometime inquiries into careless riding are conducted under time pressure, in between races, where the rider in question might not have the fullest opportunity to consider whether they have breached the rule or not, or might make a decision "in the heat of the moment" that, upon reflection, they decide to change. A change of plea will not always be a mitigating factor, but in this instance we consider it should be. We would therefore reduce the appellant's penalty from a 5-meeting suspension, to a 4-meeting suspension. The appeal deposit however, given the late change of plea – and it being the only reason for a reduction in penalty – is forfeited.
7. The Panel makes these orders:
 1. Finding of breach of AR 131(a) confirmed.

2. Appeal in relation to severity of penalty allowed.
3. In lieu of a 5-meeting suspension, the appellant's licence to ride is suspended for 4 meetings. Such suspension commences on Sunday 6 September, and expires on Thursday 17 September, on which day the appellant may ride.
4. Appeal deposit forfeited.