

RACING APPEALS TRIBUNAL

RAT 28/2017

DATE OF HEARING: Wednesday, 29 November 2017

TRIBUNAL: **PRESIDENT:** MR T ANDERSON QC

CHAIRMAN OF STEWARDS, THOROUGHBRED RACING SA LTD: MR J PETZER,

APPELLANT: MS STACEY WYATT

IN THE MATTER of an Appeal by **MS STACEY WYATT** against a decision of Thoroughbred Racing SA Ltd Stewards.

BREACH OF RULE:

AR.175. The Principal Racing Authority (or the Stewards exercising powers delegated to them) may penalise;

(f) Any person who refuses or fails to attend or give evidence at any investigation, inquiry or appeal when directed or requested by the Principal Racing Authority, or other person authorised by the Principal Racing Authority, to do so.

(p) Any person who fails or refuses to comply with any order, direction or requirement of the Stewards or any official.

PENALTY:

Rule 175 (f) 6 months disqualification

Rule 175(p) A fine of \$600.00

DETERMINATION

The Appellant holds a licence as a stable employee granted by Thoroughbred Racing South Australia Ltd (TRSA). This licence is current for the 2017/2018 racing season.

The Appellant has allegedly posted comments on Facebook which TRSA Stewards wish to investigate. I am not privy to what was apparently said in this post. Ms Wyatt has not yet been interviewed regarding that matter.

The matter now before the Tribunal arises out of her refusal to attend an Inquiry in relation to the alleged Facebook comments.

On three occasions the Stewards requested her to attend an Inquiry.

The emails and attachments passing between the Appellant and TRSA relative to those requests have been placed before the Tribunal.

The Appellant declined these requests and finally responded on 7 November 2017, stating, *"As I have told you numerous times, I will not be attending any sort of Inquiry. I work full-time, so if you must have an Inquiry, do it without me and do what you must."*

The Stewards, correctly in my view, proceeded to conduct an Inquiry in her absence as a result of her failure to attend.

She was advised that she had been charged under AR.175 (f) for her failure to attend the Inquiry and under AR 175 (p) for failing to comply with a number of directions from the Stewards.

The particulars of the breach of Rule 175 (f) are that *"You, Stacey Wyatt, a licensed stable employee with Thoroughbred Racing SA Limited for the 2017/2018 racing season, failed to attend an Inquiry on 14 November 2017 as directed to do so on three separate occasions, being a letter dated Wednesday, 20 September 2017, an email dated Friday, 13 October 2017, and a letter dated Wednesday, 25 October 2017."* The particulars of the breach of Rule 175(f) were in similar terms.

The Stewards proceeded to conduct the Inquiry and Ms Wyatt was found guilty and a penalty imposed of six months disqualification for a breach of Rule 175 (f), plus a fine of \$600 for a breach of rule 175 (p) for failing or refusing to comply with any order, direction or requirement of the Stewards or any official.

The Appellant was asked prior to the Tribunal hearing to elaborate on the basis for her appeal, and she responded by email dated 27 November 2017.

In that email, she made it clear that all she was complaining about was the disqualification, and she gave reasons why she considered that penalty to be too harsh.

She was not complaining about paying the fine of \$600.00. She was intending to appear at the Tribunal hearing and making submissions.

At the Tribunal hearing, she attended with a Mr John Halliday who sought to represent her. He said he was a McKenzie Friend. I allowed him to be present in the capacity of a McKenzie Friend, but I made it clear to him what restrictions there were in his role as such.

Mr Halliday has no legal or other qualifications that I am aware of, but it seems he regards himself as an expert on legal process. He was belligerent and unhelpful, and I formed the impression that Ms Wyatt would do a better job in making her submissions than her 'McKenzie Friend'.

Ms Wyatt presented as an intelligent and articulate young woman and knew what she wanted, namely to set aside the disqualification.

She made sensible and cogent submissions regarding the penalty by enlarging on the points she had made in her email of 27 November 2017.

At the conclusion of her submission, I heard submissions from Mr Petzer representing the Stewards, and Mr Petzer made his submissions to justify the penalty imposed. He emphasised the deterrent aspect of making it clear that a failure to attend an Inquiry was a serious matter.

I agree with him.

Ms Wyatt explained that apart from her job as a stable hand, she had a job at Harness Racing SA (HRSA) as the Clerk of the Course and attended three meetings a week and earned approximately \$900 per week in that role.

She pointed out the severe financial consequences with a disqualification of six months, because she was not allowed, as the result of the disqualification, to attend any racecourse, including those operated by HRSA.

The penalty of six months' disqualification for a breach of Rule 175 (f) as opposed to the fine of \$600 for a breach of Rule 175 (p) is in my opinion manifestly excessive.

I agree that it is an important aspect of the penalty that there be a sufficient deterrent for this type of behaviour. It is a serious breach. I do take into account her loss of income of \$900 per week for six months and feel that in the circumstances that is particularly harsh.

Going back to the hearing which Ms Wyatt refused to attend, she was given every opportunity to arrange her attendance at some convenient time but declined to cooperate and indicated, as I have previously said, that she was not going to attend and advised the Stewards to conduct the Inquiry without her. As I have indicated, this was a serious breach by her of her obligation to attend as a licensee of TRSA.

In the circumstances, I have therefore decided as follows:

The 6 months disqualification imposed by the Stewards is reduced to 4 months.

2 months of that disqualification is to be served effective from midnight on Sunday, 19 November 2017.

The remaining 2 months of that disqualification is suspended upon the appellant attending a Stewards Inquiry at a date and time to be agreed and fixed between the Stewards and the Appellant regarding the outstanding matter of comments on Facebook, allegedly made by the Appellant, which is the subject of that Inquiry.

If the Appellant does not attend that Inquiry, obviously before the 2 months to be served expires, the total disqualification of 4 months, effective 19 November 2017 will apply.

The \$600.00 fine for the breach of Rule 175 (p) imposed by the Stewards in relation to this appeal stands.

I order that the applicable portion of the bond lodged by the Appellant is refunded.