

## **APPEAL PANEL OF RACING NEW SOUTH WALES**

### **APPEAL OF LICENSED JOCKEY MS J DRURY**

Appeal Panel:	<b>Mr R. Beasley SC (Principal Member); Mr J.T. Murphy; Ms S. Skeggs</b>
Appearances:	<b>Appellant in person Ms K Campbell, Legal Counsel for Racing New South Wales</b>
Date of Hearing and Orders:	<b>26 June 2023</b>
Date of Reasons:	<b>26 June 2023</b>
Rules involved:	<b>AR 228(a) – Improper Conduct</b>

#### **Mr R Beasley SC, for the Panel**

##### **Introduction**

1. On 2 March 2023, licensed Jockey Ms J Drury (“the Appellant”) had a physical altercation with apprentice rider Ms E Ly near the tie-up stalls at Randwick Racecourse. The Appellant dragged Ms Ly off her horse which became free, but did not run away. The Appellant was struck in the mouth by Ms Ly’s boot. For the purposes of this appeal, it does not matter if that occurred deliberately, accidentally, or as a result of Ms Ly resisting being dragged from her mount.
2. Following a Stewards’ Inquiry on 3 April 2023, the Appellant was charged with improper conduct under AR 228(a). She pleaded guilty. The Stewards imposed a full suspension on the Appellant’s licence for 2-months. This had been reduced from 4-months on account of the Appellant’s plea, her good record, and personal circumstances.
3. The Appellant has appealed against the severity of the penalty imposed upon her. She represented herself, while Racing NSW was represented by Ms K Campbell, its Legal Counsel.
4. Ms Campbell submitted to the Panel that the penalty imposed by the Stewards was appropriate for these main reasons:

- (i) The Appellant instigated the altercation. She was the aggressor.
  - (ii) The incident occurred in a workplace.
  - (iii) While the risks fortunately did not come in, the Appellant's conduct had the potential to cause injury to Ms Ly, and the horse she was riding.
5. The Panel accepts all of these submissions.
6. The Appellant tendered two references that spoke to her good character, and work ethic. She told the Panel she is entirely reliant on her work as a track-rider for her income. She wishes to return to race riding (having spent considerable time over recent years recovering from injuries), and a suspension would set that plan back. She has had a license for about 18 years, and has no record of similar offending.

### **Resolution**

7. The appeal book contained statements and transcript evidence that gave some background to the altercation between the Appellant and Ms Ly. They had been sharing a flat, and there were some disagreements over bills. The Appellant felt that Ms Ly was gossiping about her. The behaviour of Ms Ly's cat did not improve the harmony of the living arrangements. None of these matters need be resolved by the Panel, and are not central to our consideration of penalty. What is primarily relevant is the conduct of the Appellant on 2 March. From the moment she aggressively approached Ms Ly at the tie up stalls, nothing good was going to happen.
8. Penalties imposed for breach of the rules are entirely protective in nature. They are not imposed to punish people. They have an aspect of deterrence, in that they should demonstrate that Racing will not tolerate the kind of conduct the Appellant engaged in here.
9. The actual damage done to Racing by the appellant is minimal. Nevertheless, violent conduct must be deterred. Equally, any penalty must reflect the fact that while not much damage was done, the conduct risked injury to Ms Ly and her mount.

10. The penalty imposed by the Stewards is entirely appropriate. We differ only slightly, and primarily for one reason. The Appellant has been involved in racing for about 18 years, with a relevantly unblemished record. She has provided to the Panel a reference from her employer Mr Bott, and the assistant track-work manager for Randwick Racecourse. Those references highlight her good character, and work ethic. We also note that the Appellant has been on a stay for over three months, and has worked at the track with no further incidents with Ms Ly, who remains apprenticed to Ms Waterhouse. Based on all of those matters, we think the Appellant is unlikely to breach the improper conduct rule again. We consider her good record entitles her to some further dispensation, by way of a suspension of the 2-month suspension imposed. The Panel therefore makes the following orders:

1. Appeal against severity of penalty allowed.
2. Penalty of a 2-month suspension of the Appellant's license confirmed. However, under AR 283(5) that penalty is suspended for 24 months, provided the Appellant is not found during that period to have breached the improper conduct rule (or similar type rule).
3. Appeal deposit to be refunded.