



APPEAL DECISION

BEN MELHAM

and

RACING VICTORIA STEWARDS

Date of Hearing: 9 October 2017

Heard By: Judge Bowman (Chair)

Appearances: Corie Waller appeared on behalf of the stewards.

Paul O'Sullivan of Bale Boshev Lawyers appeared on behalf of Ben Melham.

At Ballarat on Thursday 5 October 2017, Ben Melham was found guilty of a charge of careless riding on his mount *Keysor* in Race 2 the *Evergreen Turf Maiden Plate* (1400m).

The carelessness being that near the 1000m he allowed his mount to shift in when insufficiently clear of *Its A Date* which had to be checked

Mr Melham had his licence to ride in races suspended for a period to commence at midnight on Saturday, 7 October 2017 and to expire at midnight on Sunday, 15 October 2017 – a total of 9 race meetings (1 metro, 8 provincial).

In assessing penalty Stewards took into account his record, the meetings he will miss and that the careless riding was in the low range.

A Notice of Appeal against conviction and penalty was lodged on Friday, 6 October 2017. A stay of proceedings was not requested.

At the hearing, the Board accepted an application by Mr O'Sullivan on behalf of Mr Melham to withdraw the appeal against conviction.

DECISION: Appeal against severity of penalty – allowed.

Penalty varied so that the period of suspension expires at midnight on Friday, 13 October 2017 (7 race meetings).

**TRANSCRIPT OF
PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD

HIS HONOUR JUDGE J. BOWMAN, Chairman

EXTRACT OF PROCEEDINGS

DECISION

BEN MELHAM

and

RACING VICTORIA

RACING VICTORIA CENTRE, FLEMINGTON

MONDAY, 9 OCTOBER 2017

MR P. O'SULLIVAN (instructed by Bale Boshev Lawyers) appeared
on behalf of Mr B. Melham

MR C. WALLER appeared on behalf of the RVL Stewards

CHAIRMAN: Mr Ben Melham, you have pleaded guilty to a charge of careless riding in race 2 over 1400 metres at Ballarat on 5 October last. You allowed your mount, Keysor, to shift in when insufficiently clear of It's a Date, ridden by Dean Yendall, this occurring near the 1000-metre mark. Originally you pleaded not guilty. Stewards found you guilty of the charge and suspended you for nine meetings. Originally you appealed against both conviction and the severity of the penalty, but you have today withdrawn the appeal against the conviction.

I have viewed the video. It is quite clear that to some extent you did cross Dean Yendall's horse when not sufficiently clear of him. The video shows you were three wide, with Yendall's mount, It's a Date, on the rails. Jamie Mott's mount was between yours and Yendall's. Clearly, you looked to your inside twice before safely crossing Mott's mount. You then clearly looked to your inside again. You crossed Yendall when you were short of two lengths clear of him.

It may be that you did not entirely take his running but it is apparent that you caused him to take hold of his mount. The interference was not gross. That can be seen clearly on the patrol film. What occurred does constitute careless riding but I agree that it is in the low range. Mr Waller for the Stewards very fairly stated that had you pleaded guilty at the outset, you would probably have received a penalty of an eight-day suspension.

Your very recent record is not good. Overall, since 9 January 2016, there have been some 10 suspensions. This is not a particularly brilliant record but there are worse around. I appreciate this is the time of the year when leading jockeys such as yourself are in demand for rides in big Group races and there are four next Saturday. That is not a factor in respect of which I give great allowance.

I have given this matter considerable thought. The main fact that I have taken into account is that the level of interference was at the lowest end. To me, there does not appear to have been much chance of, for example, a fall. The chances of Yendall's mount did not seem to me to be greatly affected.

This is a somewhat unusual case. There is no doubt that you looked to your left before crossing and I accept that you thought you were clear and had taken precautions to look. Your horse may have come back under you to some extent. I also accept that Yendall's mount overreacted to your partial crossing of him. As I say, I have given this considerable thought and in the circumstances, I am prepared to vary the period of suspension to seven meetings. That is not an invitation to one and all to appeal in the expectation of getting a reduction in penalty so as to ride in the big races. This was interference at the lowest end of the scale and the penalty I am now imposing reflects both that and the ultimate change of plea. So the appeal is upheld and the period of suspension varied to seven meetings, to expire at midnight on Friday, 13 October 2017.
