

IN THE RACING APPEALS TRIBUNAL

JULIE ANN KING

Applicant

v

GREYHOUND WELFARE AND INTEGRITY COMMISSION

Respondent

**APPLICATION BY JULIE ANN KING PURSUANT TO CLAUSE 14(1)(a) OF THE RACING
APPEAL TRIBUNAL REGULATION 2015 (NSW)**

REASONS FOR DETERMINATION

INTRODUCTION

1. Until recently, Julie Ann King (the Applicant) was a registered participant in the greyhound racing industry as the holder of a registration as a Public Trainer and Breeder with the Greyhound Welfare and Integrity Commission (the Respondent). At the relevant time the Applicant lived, and trained her greyhounds, at 1954 Summerland Way, Warragai Creek, NSW (the property).
2. On 1 March 2024, in the circumstances more fully described below, the Respondent imposed an interim disqualification upon the Applicant.
3. By Notice dated 1 March 2024, the Appellant lodged an appeal against that determination, and simultaneously made an application pursuant to cl 14(1)(a) of the *Racing Appeals Tribunal Regulation 2015* (the Regulation) that the determination not be carried into effect. It is that application which is the subject of these reasons. The application is opposed by the Respondent.

THE FACTUAL BACKGROUND

4. Trevor Rice (Rice) is the Applicant's partner. He is currently an Appellant before this Tribunal, having brought an appeal against penalties imposed against him by the Respondent. Those penalties include a lifetime disqualification arising from allegations which have been described as "animal cruelty".

5. On 12 November 2023, the Respondent wrote to the Applicant in the following terms:

[The Respondent] is aware that [Rice] currently resides at [the property]. [The Respondent] notes that [the property] is your registered kennel address.

*[Rice] has been advised that he is no longer permitted to reside at [the property] from **5.00 pm Friday 15 December 2023**.*

[The Respondent] wishes to advise you that should [Rice] continue to reside at the property after this date, you may be in breach of Local Rule 180A which reads:

LR180A Disqualified person residing on premises where greyhounds are trained

A person shall not, without prior written approval of the Controlling Body, train or keep a greyhound on premises which are:

- a. occupied by a disqualified person or defaulter or warned off person;*
- b. used by a disqualified person or defaulter or warned off person for any business or other purpose.*

You may also be in breach of Rule 156(x) which reads:

R 156 General offences

An offence is committed if a person (including an official):

- (x) being a registered person or person associated with greyhound racing, associates with a disqualified or warned off person for the purposes of greyhound racing.*

6. The correspondence from the Respondent went on to warn the Applicant of potential disciplinary action against her.

7. On 26 February 2024, officers of the Respondent visited the property and spoke with the Applicant. Those officers included Mr Degan, the Senior Steward. I have

been provided with a transcript of that conversation which took place on that occasion, which includes the following exchange:¹

Degan: Is Trevor Rice here at all?

*Applicant: I'm not going to lie. Yes. He's got nothing to do with the dogs. I'm not going to put the bloke out in the street. **He's my partner. I'm not putting him out in the street. I know I can get into trouble for this. But I'm not gonna put him out in the street.** Because if he goes and kills himself are youse guys gonna be responsible for him? Because he will do it. Because he's got nothing to his life. **He's got nowhere to live.** He's got no money. He doesn't own the van anymore. It's my van. ... So he's got nowhere to go. The only thing he can take is my old piece of crap RAV and it doesn't go. ... **So I'm being honest to you, Dean. ... I'm not going to lie because you lie, it gets you into more ... trouble** (emphasis added in each case).*

8. When Mr Degan drew the Applicant's attention to the fact that she had been informed that Rice was not to be in occupation of the property, she said:²

But I thought when the appeal – when we did an appeal, he was allowed to come back ... our solicitor told us that we were allowed to – he was allowed to stay until that went through. That's what our solicitor told us.

9. When asked about any involvement Rice may have had with the Applicant's greyhounds, the Applicant said:³

*Yes, **he's staying in the house.** He doesn't have anything to do so with the dogs. He does not do dogs. Aaron and I do the dogs. ...* (emphasis added).

10. On 26 February 2024 (inferentially, shortly after the conversation set out above) the Respondent wrote to the Applicant advising that it was considering implementing disciplinary action against her, and had commenced an inquiry. The Respondent stated:

[The Respondent] alleges that through your association with Mr Trevor Rice, you may have breached the Greyhound Racing Rules, with the circumstances being:

¹ At T 4.12 – T 4.31

² At T 5.33 – T 5.40.

³ At T 6.1 – T 6.4.

- *That you have permitted disqualified person Mr Trevor Rice to reside at your registered kennel address, being [the property]; and*
- *That you, being a registered person, have associated with a disqualified person, Mr Trevor Rice.*

We have formed the preliminary view that, given the nature of the inquiry, it is appropriate for us to consider implementing an interim disqualification against you.

11. The Applicant responded to this correspondence, confirming that Rice *had* been staying at her property, but advising that she had arranged alternative accommodation for him. She denied any suggested breach of r 156(x) of the *Greyhound Racing Rules* (the Rules).

12. On 1 March 2024, the Respondent wrote to the Applicant again, advising that in light of the matters raised in the correspondence of 26 February 2024, it had determined that she “*be subject to the following disciplinary action as proposed ...*”, namely “*disqualification pursuant to s 59(1)(d) of the [Greyhound Racing Act 2017 (NSW)] pending the finalisation of the inquiry*”. An accompanying document headed “*Disciplinary Action Decision*” made it clear that the disqualification imposed was an interim one.

13. The Respondent has advised that it is currently finalising its investigation, and will be in a position to advise the Applicant of the outcome, including what (if any) charges are to be brought against her, by 25 March 2024.

THE RELEVANT PRINCIPLES

14. The principles governing an application under cl 14(1)(a) of the Regulation have been set out at length in a number of previous determinations,⁴ and accordingly I do not propose to repeat them. Those principles have been applied in the present case. Fundamentally, they require the Applicant to establish that:

⁴ See for example the decision of the Tribunal in *James William Goddard v GWIC*, 2 February 2024.

- (i) there is a serious question to be tried; and
- (ii) the balance of convenience favours the making of the order sought.

SUBMISSIONS OF THE PARTIES

Submissions of the Applicant

15. In terms of the first question, the Applicant's solicitor raised an issue of the Applicant's awareness of the prohibition against Rice occupying the property. It was further submitted that in all of the circumstances, the Respondent would be unable to establish the commission of a breach of r 159(x) of the Rules, for the simple reason that there was no evidence that the Applicant was associating with Rice "*for the purposes of greyhound racing*".

16. As to a suggested breach of Local Rule 180A, it was submitted on behalf of the Applicant that a determination made in relation to Rice by Chief Commissioner Taylor had "created confusion". Specific reference was made to paragraphs [138] and [139] of that determination. I should point out that such determination does not form part of the evidence before me on this application.

17. The Applicant's solicitor further submitted that even if the Applicant was ultimately found guilty of a breach of Local Rule 180A, a disqualification was not inevitable. In this regard, he sought to draw an analogy between the circumstances of the present case, and those which often confront a Court in determining an application for release under the *Bail Act 2013 (NSW)*, when it is suggested that if release is not granted, the period in which the accused person will remain in custody until any hearing date will exceed any penalty which is likely to be imposed.

18. In terms of the second question, the Applicant's solicitor pointed out that the Applicant currently has approximately 58 greyhounds at the property, 22 of which are registered in her name. It was submitted that the cost of providing training and care for these greyhounds was substantial, that the Applicant's remaining income was limited to a pension payment of \$97.00 pw, and that the mortgage over the

property was currently repayable at \$400.00 pw. It was submitted that in these circumstances, if the interim disqualification were to continue, the Applicant would have no choice other than to sell all of the greyhounds in her care.

19. It was further submitted that in the event that the Applicant's appeal against the interim disqualification was successful, and in the absence of a stay, she would suffer "irreversible damages and prejudice" arising from (inter alia) the forced disposal of the greyhounds in her care.

Submissions of the Respondent

20. As to the first question, the Respondent submitted, in effect, that there was no serious question to be tried given that any permission which had been extended to Rice to occupy the premises had been withdrawn, effective on 15 December 2023. The Respondent pointed, in particular, to the correspondence sent to the Applicant on 11 December in which the Applicant was put on notice of that fact. It was submitted that on and from that date, the Applicant must have been aware that Rice was prohibited from occupying the premises. The Respondent also pointed to the statements made by the Applicant when interviewed by Mr Degan on 26 February 2024. It was submitted that those statements amounted to admissions against interest, which were at odds with any suggested lack of awareness on the part of the Applicant of the prohibition against Rice occupying the premises.

21. As to the second question, the Respondent pointed to its principal objectives outlined in s 11 of the *Greyhound Racing Act 2017* (the Act). It was submitted that, consistent with those objectives, the balance of convenience fell squarely in its favour. It was also pointed out that the Respondent would be in a position to expedite the hearing of the Appeal, and that in any event, the inquiry would be finalised (and, if appropriate, charges would be laid) by 25 March 2024.

CONSIDERATION

Is there a serious question to be tried?

22. Bearing in mind the terms of the Respondent's correspondence of 26 February 2024, it would seem that any action taken against the Applicant at the conclusion of the inquiry is likely to be in the form of an allegation of a breach of:

- (a) r 156(x) of the Rules; and/or
- (b) Local Rule 180A.

23. One of the elements of a contravention of r 156(x), which the Respondent would be required to provide if such a contravention was alleged, is that the Applicant's association with Rice was *for the purposes of greyhound racing*. On the evidence currently available to me, there is nothing which would support that allegation. Nothing said by the Applicant when interviewed on 26 February amounted to any admission in that regard.

24. However, the position would appear to be somewhat different in relation to any allegation of a breach of Local Rule 180A. There is evidence which would appear to establish, at a prima facie level, that:

- (i) any permission that Rice may have had to occupy the property was withdrawn, effective on 15 December 2023;
- (ii) Rice continued to occupy the premises beyond that date, and was in occupation on 26 February 2024;
- (iii) the Applicant kept greyhounds on the property at a time when it was, to her knowledge, occupied by Rice;
- (iv) the Applicant, on her own admission, did so in circumstances where she knew that (to use her words) she could "*get into trouble*".

25. In these circumstances, I am not satisfied, at least in relation to an allegation of a breach of Local Rule 180A, that there is a serious question to be tried on the evidence which is presently available.

26. In terms of the analogy which was sought to be drawn between the circumstances of the present case and those which may confront a Court in proceedings under the *Bail Act 2013* (NSW), it is my view that a submission of the kind made on the Applicant's behalf as to the likely penalty involves impermissible speculation, particularly given the paucity of the material which is before the Tribunal on the present application. That material, such as it is, is unlikely to constitute the entirety of the evidence which would be taken into account in the event that it became necessary to consider an appropriate penalty for an established breach.

27. For all of these reasons, I am not satisfied that there is a serious question to be tried.

Where does the balance of convenience lie?

28. Having concluded that I am not satisfied that there is a serious question to be tried, it is not strictly necessary for me to consider where the balance of convenience might lie. However, in circumstances where both parties have made submissions on this issue, it is appropriate that it be briefly addressed.

29. In my view, it is significant that the inquiry in relation to the allegations against the Applicant will be finalised in less than a week. The Respondent has also indicated a preparedness to deal with the present appeal against the interim disqualification expeditiously. In the event that the outcome of the inquiry is that a charge or charges is or are brought against the Applicant, the indications are that such charge(s) can be dealt with relatively quickly. Accepting all of that to be the case, the catastrophic consequences which the Applicant's solicitor has suggested will eventuate in the event that the present application is not successful, may not come to pass at all.

30. Further, I am necessarily mindful of the fact that one of the principal statutory objectives of the Respondent is to maintain public confidence in the greyhound racing industry. In my view, that objective would, on the current evidence, be in danger of erosion if a stay were granted.

31. For all of these reasons, it is my view that the balance of convenience lies in favour of the Respondent.

ORDERS

32. For the reasons given, I make the following orders:

1. The application pursuant to cl 14(1)(a) of the *Racing Appeal Tribunal Regulation 2015* (NSW) is refused.
2. The Respondent is to advise the Tribunal of the outcome of the inquiry by 5.00 pm on 26 March 2024.

THE HONOURABLE G J BELLEW SC

19 March 2024

Amendment note: Typographical error in paragraph [30] corrected by deleting the word “not” in the last line.