

IN THE MATTER OF AN APPEAL UNDER ENABLING LEGISLATION OF THE
LEGISLATURES OF THE PROVINCES OF PRINCE EDWARD ISLAND, NOVA
SCOTIA, NEWFOUNDLAND AND LABRADOR, AND NEW BRUNSWICK
ESTABLISHING AN ATLANTIC PROVINCES HARNESS RACING COMMISSION
AND UNDER THE RULES AND REGULATIONS OF THE ATLANTIC PROVINCES
HARNESS RACING COMMISSION.

Appeal Heard at Kensington, PE, November 16th 2017, 5:30 P.M.

BETWEEN: Ken Murphy (530G66)
APHRC Licensee
PE
APPELLANT

AND: Kent Butler, Senior Judge
Roger DesRoches, Ron Hennessey,
Associates, Judges' Panel CDP,
October 14TH, 2017, Race #9
RESPONDENT(S)

PRESENT:

A panel consisting of Chair Frank Balcom (NS), Commissioners, Cheryl Geldart Greer (NB), Keith Gowan (NL), Lowell Stead (PE), Blair Hansen (PE), David Lewis (NS), and Stefan DeCoursey (NB) convened to hear the appeal. Debbie Walsh and Paul Hogan appeared at the hearing for the Administration. Judge Kent Butler appeared on behalf of the Respondent(s). Mr. Ken Murphy appeared in person and was self-represented. Appellant and Respondent(s) were affirmed by Commissioner David Lewis.

The Appeal Hearing was conducted under the provisions of Section 7. 3 of the Atlantic Provinces Harness Racing Rules and Regulations and the procedure for the conduct of the Appeal Hearing was guided by that Section.

The Chair introduced all those present and then asked both parties if they accepted the jurisdiction of the APHR Commission Appeal Panel of Seven (7) Commissioners; at least one member from each of the participating Provinces of the Commission, to conduct the Appeal and to render a written Decision in due time. All parties accepted the jurisdiction of the Atlantic Provinces Harness Racing Commission Appeal Panel of Seven (7) Commissioners.

PRELIMINARY MATTERS:

The Chair asked if there were any Preliminary Matters to be dealt with, and there being



none, the Hearing continued.

POSITION OF THE RESPONDENT JUDGES PANEL:

Judge Butler distributed (001R) the yearly summary print out of Rambling Lily's race and stated that in accordance with the rule, the driver who takes the lead has a responsibility to set and maintain a pace comparable to the class in which the horse is racing. The Judges' panel believed that Mr. Murphy was in violation of the rule.

END OF RESPONDENT'S SUBMISSION

POSITION OF THE APPELLANT – APHRC LICENSEE DRIVER KEN MURPHY

Mr. Murphy stated that if you go a half in 58 seconds with the horse, she will be beaten, "she is getting tired and I am giving the owners and bettors a shot to win." "If I go any quicker to the half I get beat."

He said that he maintained the pace given the wind and the way the horse was on night of the race.

Mr. Murphy also distributed the official race report (001A) of a race won by Half Cut on September 16th and the program page from Race 9 on November 18th (002A) in order to illustrate fractions of other races where fines were not levied.

END OF SUBMISSION OF APPELLANT APHRC LICENSEE DRIVER KEN MURPHY

MAJORITY DECISION 5-1 OF THE ATLANTIC PROVINCES HARNESS RACING APPEAL PANEL OF SEVEN (7) COMMISSIONERS, CHAIR NOT VOTING.

After a thorough Appeal Hearing, a review of evidence and post hearing deliberations, your APHR Commission by a majority decision of 5-1 finds as follows:



The Appeal of KEN MURPHY is ALLOWED

Reason for Decision:

1. Appeal Board members who allowed the Appeal believed that with the half second variant, the horse is back where it had performed in previous starts.
2. Appeal Board member who denied the Appeal was of the belief that considering the ability of the horse, the time to the half was too slow.



FRANK BALCOM
Chair

Atlantic Provinces Harness Racing Commission Appeal Panel of SEVEN (7),

DATED AT KENSINGTON, PRINCE EDWARD ISLAND THIS 16TH DAY OF
November, A.D., 2017.

PH/Kensington, PEI, 16/11/17

