

**CITATION:** *Paull v Queensland All Codes Racing Industry Board* [2017] QCAT 332

**PARTIES:** Gregory Brian Paull  
(Applicant)  
v  
Queensland All Codes Racing Industry Board  
(Respondent)

**APPLICATION NUMBER:** OCR155-15

**MATTER TYPE:** Occupational regulation matters

**HEARING DATE:** On the papers 1 September 2017

**HEARD AT:** Brisbane

**DECISION OF:** **Member Paratz**

**REASONS DELIVERED ON:** 27 September 2017

**DELIVERED AT:** Brisbane

**ORDERS MADE:**

- 1. The application for miscellaneous matters filed on 31 August 2017 is dismissed.**
- 2. The Directions Hearing listed in Brisbane at 2:30pm on 3 October 2017 is confirmed.**

**CATCHWORDS:** ADMINISTRATIVE LAW – ADMINISTRATIVE TRIBUNALS – QUEENSLAND CIVIL AND ADMINISTRATIVE TRIBUNAL

PROCEDURE – MISCELLANEOUS PROCEDURAL MATTERS – OTHER MATTERS – where an application for an urgent directions hearing and an immediate mediation was made – where the Appeal Tribunal had made a decision and the appeal period was about to expire

This matter was heard and determined on the papers pursuant to s 32 of the *Queensland Civil and Administrative Tribunal Act 2009* (Qld) (QCAT Act).

## REASONS FOR DECISION

[1] A decision was made by the Racing Disciplinary Board on 29 July 2015, making adverse findings against Mr Paull on four disciplinary grounds under

the *Greyhounds Australasia Rules*. The decision imposed a disqualification period of 10 years.

- [2] Mr Paull filed an Application to Review the decision in the Tribunal on 27 August 2015 seeking that the findings on substantiation and penalty be reviewed.
- [3] Mr Paull then made an interlocutory application seeking an order that the video footage relied upon by the Board be excluded from consideration by the Tribunal in these proceedings.
- [4] The Tribunal made an Order on 12 May 2016, with written reasons, that the application to exclude the video footage was refused. Mr Paull appealed against that decision.
- [5] The Appeal Tribunal made the following Orders on 9 August 2017:
- 1) Leave to appeal is granted.
  - 2) The appeal is allowed to the extent that the decision of the tribunal made on 12 May 2016 in OCR 155-15 to refuse the application to exclude the listening device evidence is set aside and an order allowing the application is substituted insofar as it records a private conversation contrary to s 43 of the *Invasion of Privacy Act 1971 (Qld)* including, in particular, the audio at 9:56:24am to 9:58:28am
- [6] The effect of the decision of the Appeal Tribunal was that videos remained in evidence.
- [7] Mr Paull filed an Application for miscellaneous matters on Thursday 31 August 2017 seeking orders as follows:
- I, Greg Paull, request an urgent Directions Hearing at QCAT for the clarification of the Appeal Tribunal Decision for APL188-16 before Tuesday 05 Sept 17, and an Immediate Mediation meeting (same day) with Qld All Codes Racing Industry Board (QRIC) to discuss future legal proceedings of OCR155-15 in QCAT.
- [8] Mr Paull stated the reasons for seeking these directions as follows:-
- The urgent Directions hearing is because the 28 day time frame for appealing to the Court of Appeal against the Appeal Tribunal Decision for APL188-16 ends at close of business on Wednesday 06 Sept 17.
- The Mediation with Qld All Codes Racing Industry Board (QRIC) is because I believe I can successfully negotiate a settlement with them to expedite the finalization of the legal proceedings in QCAT for OCR 155-15.
- [9] The miscellaneous application was referred to me as Acting Senior Member on Friday 1 September 2017. In view of the urgency of the matter, and the short time available to respond, I made a decision without reasons that day, which was emailed to Mr Paull, and I requested the Registry to advise Mr

Paull as to avenues available to him in relation to the matters he referred to in his miscellaneous application. The decision was as follows:

- 1) The application for miscellaneous matters is dismissed.
- 2) The directions hearing listed in Brisbane at 2:30pm on 3 October 2017 is confirmed.

[10] The Registry sent an email to Mr Paull on 1 September 2017 at 3.03pm which included the following advices:

Dear Mr Paull

Enclosed please find a copy of the Tribunal's decision in relation to application for miscellaneous matters filed in Gatton.

A hard copy will not be sent unless a written request is received.

Further to your recent telephone conversation with registry, it is a matter for each party to determine if they wish to challenge/appeal the decision of the Appeal Tribunal in the Court of Appeal.

Neither the Tribunal nor registry can provide clarification about a decision of the Appeal Tribunal.

You may wish to seek your own independent advice from a suitably qualified advisor. A copy of QCAT's fact sheet on 'where to get legal advice' is attached for your information. You may wish to consider contacting LawRight by telephone on 3006 2324 or by email at [qcatadmin@lawright.org.au](mailto:qcatadmin@lawright.org.au)

QCAT encourages the parties to liaise and co-operate with each other and settle matters, wherever possible, by mutual agreement. This can be done at any stage in the proceeding. That however is a matter for the parties to discuss.

At the directions hearing on 3 October 2017 parties can request that QCAT refer this matter to either a compulsory conference or a mediation.

An appeal fact sheet is attached

Further information on QCAT procedures can be obtained at [www.qcat.qld.gov.au](http://www.qcat.qld.gov.au)

Yours faithfully

[11] Mr Paull has had subsequent substantial contact with the Registry, which has been deemed to constitute a Request for Reasons for my decision of 1 September 2017. These are the Reasons for my decision.

## **Discussion**

[12] The application for a Directions Hearing to 'clarify' the decision of the Appeal Tribunal is misfounded.

- [13] A Directions Hearing would be a procedural step before a single Member to make directions for the further conduct of the Application to Review. A Directions Hearing would not make directions or orders affecting a final decision of the Appeal Tribunal. That part of the miscellaneous application seeking 'clarification' cannot succeed.
- [14] It is a matter for a party to obtain their own legal advice as to an appeal, and to pursue any appeal against a decision. The Tribunal is an impartial arbiter and cannot give legal advice to a party.
- [15] Mr Paull sought an order for an immediate mediation. He did not bring the application until about 3 weeks of the 4 week appeal period had expired. He does not give any explanation as to why this delay occurred.
- [16] Whilst the application was expressed by Mr Paull to be urgent, the urgency arose due to the lateness of the making of the application.
- [17] It is not reasonable to expect the QRICB to attend a Compulsory Conference in the short timeframe requested, and without notice.
- [18] Further, there is no demonstrated urgency in holding a Compulsory Conference. The only element of urgency was as to the filing of a Notice of Appeal.
- [19] Mr Paull could have filed a Notice of Appeal within time, in order to protect his rights in respect of the interlocutory issue, and still have requested the holding of a Compulsory Conference in the application to review in an ordinary fashion. That Compulsory Conference could be held by arrangement at a time convenient to the parties and the Tribunal, and could be discussed at the Directions Hearing already set for 3 October 2017.
- [20] The application for miscellaneous matters is dismissed accordingly, and the matter should proceed to the Directions Hearing on 3 October 2017 as set.