

IN 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, December 18, 2023.

BETWEEN:

Myles Heffernan 6740X7
APHRC Licensee

APPELLANT

AND:

Kevin Crowell, Senior Judge
at Truro Raceway
RESPONDENT(S)

PRESENT:

A panel consisting of Commissioners, Vice Chair Stefan DeCoursey (NB), Keith Gowan (NL), Jacinta Campbell (PE), Dawn Hubbard (NB) and Dr. James Boswall (PE) convened to hear the appeal. Cindy Doucette, Brett Revington and Mike Wilson appeared at the hearing for the Administration. Appellant Myles Heffernan was self-represented, the respondent, Senior Judge Kevin Crowell represented himself.

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 hearing was conducted by conference call.

The Vice Chair, Stefan Decoursey, introduced all those present and then asked both parties if they accepted the jurisdiction of the APHR Commission Appeal Panel of five (5) Commissioners; 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 five (5) Commissioners.

PRELIMINARY MATTERS:

The Chair asked if there were any Preliminary Matters to be dealt with, and there being none, the hearing continued.

Appeal description:

This is an appeal against the Judges ruling on October 29,2023 at Truro raceway, where Myles Heffernan was fined \$100 for using offensive and profane language while in the Race office as per APHRC rule#351-1.

POSITION OF THE RESPONDENT JUDGES PANEL:

Judge Crowell stated that he received a call from the Truro race office that Mr. Heffernan was using offensive and profane language after being informed that his horse was scratched for not making his starting fee payment on time.

Judge Crowell read a statement from Truro General Manager Steve Fitzsimmons that Mr. Heffernan's language could be heard by everyone in and around the office and that his conduct was unacceptable towards the Race Office staff.

Judge Crowell called Katie Shannon as a witness, Katie was working in the Race office on the day in question and stated that after Mr. Heffernan's horse was scratched by the Judges, he proceeded to start to use offensive and profane language and was increasing the volume of his voice. Katie tried to get him to stop saying "ok that's enough" to which he replied, "I'm talking to them not you so shut the f up".

END OF RESPONDENT'S SUBMISSION

POSITION OF THE APPELLANT APHRC LICENSEE Myles Heffernan

Mr. Heffernan admitted to using offensive and profane language but not towards the Truro race office staff members.

Mr. Heffernan called Saul Lanigan as a witness; Mr. Lanigan was present that day in the Race office waiting to make his starting fee payment. He stated that Mr. Heffernan was using offensive and profane language but was not speaking directly to the race office staff.

END OF SUBMISSIONS BY THE APPELLANT AND RESPONDENT

By a DECISION OF THE ATLANTIC PROVINCES HARNESS
RACING APPEAL PANEL OF Four (4) COMMISSIONERS.

After a thorough Appeal Hearing, a review of evidence and post hearing deliberations,
your APHR Commission by a decision of 4-0 finds as follows:

The Appeal of Mr. Heffernan **has been modified to state that Mr. Heffernan did use
offensive and profane language but not towards the Truro race Office staff.**

The original decision of the Judges has been upheld, and a fine of \$100 is assessed.

Reason for Decision:

1. Mr. Heffernan admitted to using offensive and profane language in the Race
office area on October 29,2023 at Truro raceway.

 AS PER.

Stefan Decoursey, Vice Chairman APH Racing Commission Appeal Panel of Four (4),

DATED AT KENSINGTON, PRINCE EDWARD ISLAND THIS 22nd DAY OF
December A.D., 2023.

MW/Kensington. PEL