

Decision of the Appeal Board

In the Appeal of Stuart Mason

(Heard Wednesday 24 April 2013)

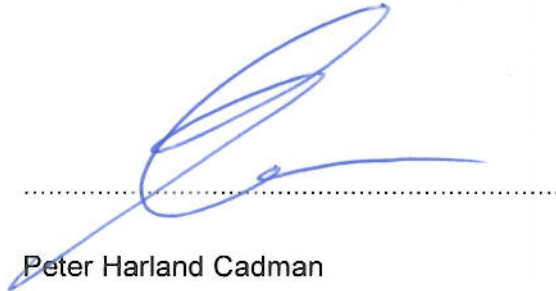
1. The Appellant accepted that the Appeal Board cannot consider new evidence and through his representative he confirmed that he wished the Appeal to be considered today rather than for an application being made under Rule 163(1) for the Disciplinary Committee to consider new information. The Appellant realised that the Appeal Board therefore had to disregard any new information or evidence that had been contained within the Appeal bundle.
2. We listened carefully to the arguments presented and wish to record our thanks to the Appellant's representative, Jim Reynolds. Our decision is limited in scope because of the manner in which the Appellant has chosen to present this matter. Because the Appellant has chosen not to proceed under Rule 163(1) the Appellant has decided therefore not to present new evidence and new material for our consideration. This Appeal therefore has been considered by way of a review of the Disciplinary Committee decision.
3. We have been provided with details of other decisions of Disciplinary Committees and have been asked to consider whether the current penalty imposed in this matter is excessive. Those other decisions of Disciplinary Committees are informative but are not binding on us. We have noted that in other cases decisions have been made that did not result in the withdrawal of licences even when there have been prior matters. However, each case must turn on its own facts.
4. In this matter (in the absence of new evidence) there were positive samples arising from two different dates. The Disciplinary Committee took this as an aggravating feature as we must do.

5. We do, however, consider that the actual penalty imposed by the Disciplinary Committee in this matter was excessive and we can properly vary it to reflect due consideration to matters presented to us today including the action taken by the Appellant himself by shutting his kennels. Our decision therefore is as follows:

- i. As far as the fine is concerned of £1,500 that penalty remains.
- ii. As far as the licence is concerned, we have concluded that a lesser period is appropriate namely for a period of 3 months from the date of the Disciplinary Committee hearing i.e. from 12 February 2013.
- iii. The Appeal fee will be withheld.

6. We do not and cannot speculate what decision a Disciplinary Committee might have made if the new evidence and information had been presented to it. This Appeal has been based on the specific facts and submissions that have been presented to us.

Signed:



Peter Harland Cadman

Dated:

24/4/13