

## **Case 1 - Refusal or Failure to Submit Horse to Sample Collection**

### **Key Words**

*Refusal; Failure; Submit; Sample; Person Responsible; Horse; Owner; Rider; Catch Ride; Delegate; Compelling Justification; No Fault or Negligence; [Doping](#)*

### **Summary**

Athlete J appealed to the National Anti-Doping Panel (NADP), in accordance with the Anti-Doping Rules of the National Governing Body (NGB) following a first instance decision that imposed a sanction of twelve months ineligibility. Athlete J was charged with an Anti-Doping Rule Violation (ADRV) under the NGB rules for refusing or failing without compelling justification to submit a horse to sample collection after notification. Athlete J alleged that she had delegated responsibility for testing to the horse's owner, in compliance with the rules. The Appeal Tribunal considered the wording of the relevant rules and noted that it was silent on the issue of whether a person responsible for a horse can delegate their responsibility. Athlete J was therefore able to prove that she had delegated responsibility for the testing of the horse to the owner. The Appeal Tribunal allowed the appeal and the period of ineligibility was eliminated.

### **Background Facts**

Athlete J was charged with an ADRV following a failure to submit a horse to sample collection. Athlete J was unfamiliar with the horse, having been notified after a 'catch ride' that the horse had been selected to provide a sample, Athlete J left the horse with its owner, Person A, and competed in her next event on a

different horse. Person A subsequently left the venue without the horse submitting a sample.

The first instance Tribunal deemed Athlete J to be the 'person responsible' for the horse, as defined in the NGB rules, and therefore found that she had refused or failed without compelling justification to submit the horse to sample collection. A period of twelve months ineligibility was imposed.

### **Reasoning and Decision**

Athlete J argued that she had legitimately delegated her responsibility to Person A, in accordance with the rules, and she reasonably believed that he would take the horse for testing. She further argued that there was no objection to her doing so from the testing officials. In the alternative, Athlete J argued that for the same reasons there was compelling justification for her actions, and that there was no fault or negligence.

The NGB argued that under its rules, Athlete J, as the rider, was equally responsible for the horse along with the owner, and that the rules did not provide for a rider to delegate responsibility to another person.

The Appeal Tribunal noted that unlike other Articles in the NGB rules, there was no express reference to 'person responsible' and it was silent on the issue of whether a person can delegate responsibility. The Appeal Tribunal was critical of the wording of the rules stating that the NGB could have drafted them to prevent delegation of responsibility if this was its intention. The Appeal Tribunal held that, whilst Athlete J had not actively assisted the testing process, she had not objected to it nor was she obstructive to the process, and therefore concluded that she had neither refused nor failed to submit the horse to sample. The Appeal Tribunal further accepted that it was reasonable for her to be satisfied that she had delegated responsibility of the horse to Person A, given that he was present at the time and his groom had taken over practical control of the horse once the competition ride had finished. The Appeal Tribunal therefore allowed the appeal and eliminated the period of ineligibility.

## **Learning Points**

If an NGB wants its rules to have a specific effect it must ensure that the drafting is effective in doing so.

