

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

ADMINISTRATIVE DIVISION

REVIEW AND REGULATION LIST

VCAT REFERENCE NO. Z181/2018

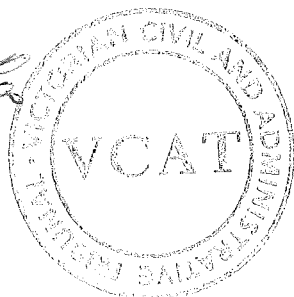
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|----------------------|-------------------------------|
| APPLICANT | Nicola Tardio |
| RESPONDENT | Harness Racing Victoria |
| WHERE HELD | In chambers |
| BEFORE | Gerard Butcher, Senior Member |
| DATE OF ORDER | 23 July 2018 |

ORDER

The stay granted on 19 March 2018 is revoked. The proceeding is otherwise dismissed.



Gerard Butcher
Senior Member



REASONS

- 1 On 16 April 2018, the following orders were made at a directions hearing. The applicant was legally represented at the directions hearing.
 - 1 By 4 pm on **14 May 2018** the applicant is to file with the Tribunal and serve on the respondent any witness statements and any other material upon which he intends to rely.
 - 2 Any witness statement of an expert witness is to comply with the requirements of Practice Note PNVCAT2. The Principal Registrar is directed to provide the parties with a copy of this Practice Note. The parties are also advised that this Practice Note is available on the Tribunal website at www.vcat.vic.gov.au.
 - 3 By 4 pm on **28 May 2018** the respondent is to file with the Tribunal and serve on the applicant any witness statements and any other material upon which it intends to rely.
 - 4 Adjourned to a final hearing before any member at 55 King Street, Melbourne on **19 June 2018** at 10 am with an estimate of two days.
 - 5 Liberty to apply.
- 2 On 15 June 2018 the following orders were made at a directions hearing. The applicant was legally represented at the directions hearing.
 - 1 The application from the applicant for an adjournment of the hearing in this proceeding is refused.
 - 2 The proceeding remains scheduled to commence at **10.00 am on Tuesday, 19 June 2018 at 55 King Street, Melbourne**; allow two days.
 - 3 The Tribunal anticipates that the respondent will present its evidence on Tuesday and the applicant will then, if he continues to call expert evidence in the proceeding, seek an adjournment of the proceeding to a later date.
 - 4 The applicant's application that he and his lawyer appear by telephone on **19 June 2018** is granted.
 - 5 The applicant's lawyer is requested to provide a landline telephone number which the Tribunal will telephone at or after the scheduled start time.
- 3 On 19 June 2018, the applicant failed to pay the hearing fee for the final hearing due to take place on that date. Additionally, the applicant had not filed and served any expert witness statement. The applicant was legally represented at the hearing via telephone.
 - 1 The hearing is adjourned to a date to be fixed (see order 6).

- 2 The applicant is to file and serve any expert witness statements in accordance with Practice Note VCAT 2 no later than 4.00 pm on 3 July 2018.
 - 3 The applicant is to pay the Tribunal's hearing fee for today and a further hearing day no later than 4.00 pm on 3 July 2018.
 - 4 If the applicant fails to comply with orders 2 and 3 or either of them the proceeding will be dismissed without further hearing.
 - 5 The applicant is to pay the respondent's costs of today fixed at \$3,500.00.
 - 6 The principal registrar is directed not to fix a further date for hearing without order of the Tribunal.
- 4 The applicant subsequently filed a statement purporting to be an expert witness statement but which did not comply with order 2 of the orders made on 19 June 2018.
 - 5 The applicant failed to pay the Tribunal's hearing fee for a further hearing day thereby failing to comply with order 3 of the orders made on 19 June 2018.
 - 6 The following orders were made on 19 July 2018 in chambers:

The statement of Colin Chapman dated 2 July 2018 and filed by the applicant does not comply with Practice Note VCAT2 and therefore does not comply with order 2 of the orders made on 19 June 2018.

The applicant has failed to pay the Tribunal's hearing fee for a further hearing day therefore failing to comply with order 3 of the orders made on 19 June 2018.

By 4.00 pm on 20 July 2018, the applicant is to comply with orders 2 and 3 of the orders made on 19 June 2018, failing which the proceeding will be dismissed without further hearing.
 - 7 The applicant has failed to comply with orders 2 and 3 of the orders made on 19 June 2018 and 11 July 2018 despite warnings given in the orders of 19 June 2018 and 11 July 2018 that failure to comply would lead to dismissal of the proceeding.

Gerard Butcher
Senior Member



