



COMMISSION HEARING

TORONTO, ONTARIO – DECEMBER 16, 2014

NOTICE OF DECISION

**IN THE MATTER OF THE RACING COMMISSION ACT, S.O. 2000, c.20;
AND IN THE MATTER OF THE APPEAL BY BERT SMITH**

The Judges prohibited Bert Smith from entering the restricted area of an Association. Bert Smith appealed against this decision.

Date of Hearing: December 16, 2014
ORC Panel: Elmer Buchanan, Chair
Anthony Williams, Vice Chair
Sandra Meyrick, Commissioner
Representative for the Appellant: Bert Smith (self represented) and
Rose Smith (closing submissions only)
Counsel for the Administration: Angela Holland

The Issues:

Q (i). Do horse racing judges have the power and authority to expel guests found in restricted areas, if such guests are properly signed in by participant licensees?

A. Yes

- (a) The power and authority of the judges to expel such guests is found in the combined operation of Rules 3.07.02 (b), 3.07.03 and 32.02 (c) of the Rules of Standardbred Racing.
- (b) If the combined operation of these Rules is found not to apply, the power and authority of the judges to expel such guests is found in Rule 1.09 of the Rules of Standardbred Racing.

Q (ii). Was the issuance of Ruling Number SB 46609 on October 23, 2014, prohibiting Bert Smith from entering the restricted areas of an association, fair and reasonable in the circumstances?

A. No

The Administration bore the burden of proof on a balance of probabilities to demonstrate that the Ruling was fair and reasonable in the circumstances, by evidence that was clear, cogent and compelling.

The cumulative impact of all of the evidence did not meet this standard of proof.

Decision:

The Appeal was allowed.

The Reasons for Decision of the Panel will follow.

DATED at Toronto this 19th day of 2014.

Steven Lehman
Executive Director