

APPEAL No 2021/1

Rule 11

Rule 14

SUMMARY OF THE FACTS

Series: Hebe Haven Yacht Club Typhoon Series 11 July 2021, Race 3. (IRC B)

The protest involved contact during a start line luffing incident that resulted in a collision involving 2 boats, Full Tilt (FT) & Juggerknot (JK). Damage was caused to Juggerknot and Full Tilt has appealed the PC's decision.

During the hearing it was concluded that FT, as windward boat, had failed to keep clear and had broken Rule 11. However FT had made her penalty turns and no further penalty was necessary.

The original protest committee was satisfied, based on the evidence provided at the hearing that it was not reasonably possible for JK to avoid contact and she should not be penalised.

The oral decision was given at the hearing and stated, using WS standard wording:

4. JK, the right-of-way boat, did not act to avoid contact when it became clear that FT was not keeping clear. JK broke RRS 14.

5. Since JK broke RRS 14 while she was sailing within the room to which she was entitled, she is exonerated under RRS 43.1(b) for this breach.

Following the hearing, the protest committee recognised that the conclusions #4 & #5 given orally were not technically valid, since RRS 43.1(c) only provides for exoneration of the right-of-way boat when there was no damage. Whereas, this case involved minor damage.

The protest committee identified that the correct wording should have been simply:

"4. It was not reasonably possible for JK to avoid contact when it became clear that FT was not keeping clear. JK did not break RRS 14".

The oral mistake was corrected in the Hebe Haven Yacht Club (Protest Committee Hearing #11 & 12) written decision without reopening, as provided for in WS Judges Manual 2021 Section F.20, and it was sent to the parties.

One party complained strongly and persistently, claiming that the change of wording was significant since the original oral decision implied a rule breach by JK, whereas the corrected decision did not. The protest committee accepted the complaint and, agreed to reopen under RRS66.3 to consider whether they 'may' have made an error.

The hearing was reopened on 28 July 2021. Both parties were informed of the reopening of the hearing in good time. Neither party was present, and the hearing continued in their absence per 63.3(b).

The reopened hearing's protest committee concurred with the conclusion #4 that it was not reasonably possible for JK to avoid contact when it was clear that FT was not keeping clear, therefore JK did not break RRS14. The reopened hearing's protest

committee also were satisfied that the original 'Facts Found' did not contradict that conclusion.

Subsequently, the hearing was closed with no changes to the Facts Found or the Conclusions of the original written decision supplied to the parties.

DECISION

Appeal dismissed

GROUNDINGS FOR DECISION

As provided for in WS Judges Manual 2021 Section F.20, the Protest Committee was entitled to correct the mistake it made when giving the oral decision.

After careful deliberation, the RR&AC considers that it has no reason to disagree with the Protest Committee's interpretation of the Facts Found. It was not reasonably possible for JK to avoid contact when it was clear that FT was not keeping clear, therefore JK did not break RRS14.

***HKSF RR&AC
Oct 2021***