



Ontario Sailing Appeal # OS2010-08

Max Sand v Five Fifteen

Max Sand is appealing the decision of the protest committee on 28 August 2010 from race 2 of the EYC Open and Level Regatta at Etobicoke Yacht Club.

**Rule 36, Races Restarted or Resailed
Rule 68, Damages**

A boat may not be penalized for breaking a rule when the race in which the incident occurred is later restarted or resailed.

Facts found by the protest committee

1. The incident occurred in start #1 of race 2
2. Start #1 resulted in a general recall
3. Five Fifteen is exonerated under rule 36

Decision of the protest committee

The protest committee dismissed the protest.

Max Sand appealed claiming that the protest committee did not consider rules 11, 12 and 14 in its facts and conclusion and is asking the appeals committee to find Five Fifteen at fault for damages to Max Sand.

Decision of the appeals committee

Appeal denied. However, the appeals committee finds that the protest committee's third fact is a conclusion, not a fact. This conclusion is corrected as follows: Rule 36 applies and neither boat can be penalized.

There was an incident between Max Sand and Five Fifteen in a race that was later recalled and restarted. According to rule 36, a breach of a rule in a race that is restarted or resailed shall not cause a boat to be penalized. Therefore neither boat can be penalized even if one or both broke a rule or rules.

Rule 68 states that the question of damages arising from a breach of any rule shall be governed by the prescriptions, if any, of the national authority. According to the CYA prescription to rule 68, only a boat that is penalized for causing damage under rule 64 for a breach of *The Racing Rules of Sailing* shall be considered at fault for the purposes of rule 68. Because neither boat can be penalized, neither can be found to be at fault.

27 September 2010

OS Appeals Committee:

Ms. Kathy Dyer, IJ, Chairman

Ms. Wendy Loat, RJ

Mr. Alex McAuley, IJ

Mr. Robert Stewart, NJ

Mr. Peter Wood, NJ