



Ontario Sailing Appeal # OS2011-02

Kookaburra v Steelin' Away

Kookaburra is appealing the decision of the protest committee on 2 July 2011 from a race on the same day at the National Yacht Club.

Rule 10, On Opposite Tacks

Rule 11, On the Same Tack, Overlapped

Rule 14, Avoiding Contact

Rule 15, Acquiring Right of Way

Rule 16.1, Changing Course

Rule 36, Races Restarted or Resailed

A boat that breaks a right of way rule in a race that is later postponed and restarted shall not be prohibited from competing in the restarted race and shall not be penalized for her breach.

Summary of the facts found

1. Prior to the starting signal, Steelin' Away and Kookaburra were on port tack, with Steelin' Away ahead and to leeward.
2. Steelin' Away tacked and then Kookaburra gybed and was overlapped to windward of Steelin' Away.
3. The boats were on converging courses with Steelin' Away sailing higher and faster.
4. Steelin' Away bore away momentarily then luffed to her previous course.
5. Kookaburra luffed and broke the overlap with Steelin' Away, then bore away and became overlapped again.
6. Steelin' Away did not change course.
7. A collision occurred between the bow of Steelin' Away and the port quarter of Kookaburra, causing damage to Kookaburra.
8. The race was postponed before the starting signal and both boats competed in the restarted race.

The protest committee also prepared a diagram of the incident.

Decision of the protest committee

The protest committee came to the following conclusions:

1. Steelin' Away complied with rule 16.1 by giving Kookaburra room to keep clear when she changed course.
2. When Kookaburra broke and re-established the overlap, Steelin' Away acquired right of way by Kookaburra's actions and was not required to initially give Kookaburra room to keep clear, according to rule 15.
3. Kookaburra overlapped to windward, did not keep clear of Steelin' Away to leeward, breaking rules 11 and 14.

4. Steelin' Away did not take avoiding action when it became clear that Kookaburra was not keeping clear, breaking rule 14.
5. Both boats broke rules, however rule 36 applies and both boats are permitted to sail in the restarted race.

Kookaburra appealed claiming that the protest committee failed to apply rule 14 and rule 12, that rules other than the rules listed on the protest form were applied, and that the protestee did not protest.

Decision of the appeals committee

Appeal dismissed.

The facts found by the protest committee support its conclusions that Kookaburra broke rules 11 and 14 and Steelin' Away broke rule 14. It also correctly applied rule 36.

Rule 61.2 in part, only requires a protest to identify any rule the protestor believes was broken for a protest to be valid. The protestor believed rule 12 applied and listed it on the protest form, although the protest committee found as fact that the boats were overlapped and applied rule 11.

The protest committee found Kookaburra's protest to be valid and a counter protest by Steelin' Away was not required for the protest committee to hold a hearing and decide the protest. The protest committee decided both boats broke rules but could not penalize either boat because rule 36 applied.

4 August 2011

OS Appeals Committee:

Ms. Kathy Dyer, IJ, Chairman

Mr. Alex McAuley, IJ

Mr. Robert Stewart, IJ

Ms. Wendy Loat, NJ

Ms. Janet McDougall, NJ

Mr. Peter Wood, NJ