



Ontario Sailing Appeal # OS2012-12

Eclipse v X35 and The Black Prince

The Black Prince is appealing the decision of the protest committee at the Royal Canadian Yacht Club on 24 July 2012 from a race on 17 July 2012.

**Rule 61.2 Protest Requirements; Protest Contents
ISAF Case 1**

The hearing of a protest must be limited to the alleged incident. If an incident described in a protest is not the inevitable result of an earlier incident described in another protest, then there are two separate incidents and two separate hearings must be conducted.

Summary of the facts

The X35 and Eclipse tacked into an overlap to leeward of The Black Prince at or before the windward mark, with Eclipse to leeward of the X35. (At this time, The Black Prince hailed “protest” and displayed a red flag. She later delivered a written protest alleging Eclipse and another boat (not the X35) had broken rule 18.3. Eclipse took a scoring penalty before the hearing of this protest.)

The Black Prince was sailing faster than Eclipse and the X35. The Black Prince changed course towards the gybe mark. Eclipse and the X35 were sailing higher courses and the boats converged. The X35 changed course to leeward to avoid The Black Prince and Eclipse changed course to leeward to avoid the X35. There was a collision between the X35 and Eclipse, causing damage to the starboard side of Eclipse and the port side of the X35.

Eclipse protested the X35 and The Black Prince alleging breaches of rule 11.

The protest committee disqualified The Black Prince for breaking rule 11. It exonerated the X35 for breaking rule 11 because she was compelled to break rule 11 by The Black Prince’s breach of rule 11. The protest committee also concluded that it was not reasonably possible for the X35 and Eclipse to avoid contact.

The Black Prince appealed claiming that the protest committee should have heard the two protests together and that Eclipse and the X35 had no rights because they broke rule 18.3.

Decision of the appeals committee

The protest committee’s procedure was correct to have separate hearings. The incident described in The Black Prince’s protest occurred in the zone to leeward of the windward mark and named Eclipse and another boat (not the X35) as the protestees. The incident described in Eclipse’s protest occurred on the next leg of the course and was not the inevitable result of the earlier incident.

ISAF Case 1 states: “When a boat continues to race after an alleged breach of a rule, her rights and obligations under the rules do not change.” Whether or not Eclipse and the X35 broke any rules prior to the incident described in Eclipse’s protest is not relevant and does not absolve The Black Prince of her obligation to keep clear of the X35 under rule 11 in this incident. Furthermore, The Black Prince’s assertion that the X35 had no rights because she earlier broke a rule has no merit. The Black Prince’s protest alleged another boat, not the X35, broke a rule in that incident.

The facts found by the protest committee support its conclusion that The Black Prince broke rule 11. Appeal denied.

17 September 2012

OS Appeals Committee:

Ms. Kathy Dyer, IJ, Chairman

Mr. Alex McAuley, IJ

Mr. Robert Stewart, IJ

Ms. Wendy Loat, NJ

Ms. Katie Nicoll, NJ

Mr. Peter Wood, NJ