



Ontario Sailing Appeal 2014-01

Mandate v Hanse

Hanse is appealing the decision of the protest committee at the Royal Canadian Yacht Club on May 20, 2014 for a race held on May 10, 2014.

Rule 61.1(a) Protest requirements: Informing the protestee

Rule 63.2 Hearings: Time and place of the hearing; Time for parties to prepare

Rule 63.3 Hearings: Right to be present

Rule 70.1 Appeals: Appeals and requests to a national authority

A party to a protest may appeal a protest committee's decision or its procedures but not the facts found.

Summary of the facts found

In an around the Toronto Islands race on May 10, 2014, a collision causing damage occurred between Mandate and Hanse in the Western Gap. Mandate was sailing close-hauled on starboard tack with Top Hat clear ahead and to leeward. Hanse, on port, crossed ahead of Mandate and astern of Top Hat and then tacked to windward of Mandate who established an overlap to leeward of Hanse. Both boats were moving faster than Top Hat, and Hanse was sailing a lower course than Mandate causing the boats to converge and contact occurred between them. Contact then occurred between Top Hat and Mandate causing damage. No boat took a penalty, and all three finished the race. The protest committee disqualified Hanse for breaking rules 11 and 14. It exonerated Mandate under rule 64.1(a) for breaches of rules 11 and 14. Hanse appealed, alleging a number of procedural errors by the protest committee and that its decision was based on incomplete facts.

Decision of the Appeals Committee

Appeal denied.

Hanse, in her appeal, claims the protest committee made an error in accepting the protest as she claims it was filed late and that a flag was not immediately flown. The PC found that the protest was delivered in time, that “protest” was hailed and a red flag was conspicuously displayed at the first reasonable opportunity.

Hanse further claims that the protest form was illegible; that she did not receive a copy of the form in a timely manner; that the procedures did not follow those of the sailing instructions; and that the protest was heard in the absence of a representative of Hanse.

The protest form, albeit untidy, is clearly legible. Although the hearing was not held on the day of the race, the sailing instructions provided for an alternate date. Hanse was provided with a copy of the protest and the date of the scheduled hearing five days in advance of the hearing date, which is in compliance with rule 63.2. Hanse did not send a representative to the hearing and thus the hearing was held in compliance with rule 63.3(b). No explanations were provided for all crew members being “unavoidably absent.”

The remainder of her appeal seeks to introduce evidence and disputes the facts found, which is not permitted by rule 70.1

June 27, 2014

OS Appeals Committee:

Ms. Wendy Loat, NJ, Chairman

Ms. Kathy Dyer, IJ

Mr. Alex McAuley, IJ

Mr. Robert Stewart, IJ

Ms. Katie Nicoll, NJ

Mr. Peter Wood, NJ