



Ontario Sailing Appeal #OS2014-04

Lightning 14174 request for redress

Lightning 14171 is appealing the decision of the protest committee at the 2014 Lightning Canadian Championships on 12 July 2014 at the Temple Reef Sailing Club for a race held on the same day.

Rule 32.1 **Shortening or abandoning after the start**
Rule 32.2(c) **Shortening or abandoning after the start**
Rule 62.2 **Redress**
ISAF Case 80

A hearing of a request for redress must be limited to the alleged incident, action or omission.

Lightning 14174 requested redress alleging that her score in the race had been made worse by the race committee improperly signalling a shortened course. Lightnings 15089 and 15495 became parties to the hearing of the request because the alleged improper action had possibly worsened their scores in the race or series.

Summary of the facts found

The race was originally set for windward/leeward, five legs. The race committee (RC) observed large wind shifts during the race and it decided to shorten the course to four legs. The RC start boat had stayed on station. It hoisted the "S" flag with sound signals as boats approached. The starting mark had been left in position. The RC intended the boats to finish between the start mark and the RC start boat.

Boats 15089, 15495, and 14174, were in positions first, second, and third, respectively, as they sailed the second leeward leg. They sailed through the gate and then sailed over and crossed through the start line from the course side. The RC recorded finishing places for all boats as they passed through the start line. Boats 15089, 15495, and 14174 were scored fourth, sixth, and eighth respectively, the order in which each crossed the starting line. At least one boat finished the race within the time limit.

The RC did not signal an abandonment during the race. The RC posted a notice on the official notice board immediately after arriving at dock that race 2 was abandoned. The RC's decision to abandon the race was based on unfair conditions due to wind shifts, and its belief that the location of the RC boat relative to the starting mark and the finish line (leeward gate) made the location of the finish line uncertain, and therefore unfair.

The RC stated that they considered the consequences for all boats in the race before abandoning the race.

The protest committee denied the request for redress concluding that the decision to

abandon the race was not an improper action by the race committee. Lightning 14171 appealed claiming that the race committee should not have been allowed to abandon the race after boats had finished.

Decision of the appeals committee

Rule 62.2 requires a request for redress to be in writing and identify the reason for making it. Lightning 14174's request for redress alleged her score in the race was made worse by an improper action of the race committee; specifically, that it did not apply rule 32.2(c) correctly when it scored boats in the order they crossed the starting line, instead of as they passed between the gate marks. Lightning 14174's written request for redress did not allege that the abandonment had made her score worse.

ISAF Case 80 states that "A fundamental principle of protest committee procedure is that a hearing must be limited to the particular 'incident' alleged in a protest (see rule 61.2(b)) or to the particular incident alleged to be an 'improper action or omission' in a request for redress under rule 62.1(a)." Therefore, the protest committee should not have considered the abandonment in its decision of the request for redress. Instead, it could only consider if the improper application of rule 32.2(c) caused the boats' scores to be worsened.

The protest committee should have denied the request by concluding that due to the abandonment, the boats no longer had scores for race 2, therefore any improper application of rule 32.2(c) did not worsen their scores.

Lightning 14174 did not make a second request for redress identifying the abandonment as the reason for making it, even though there was time to do so once she learned of the abandonment because there was a new time limit that began at that time.

As a practical matter, the protest committee did consider the abandonment during the hearing of 14174's request, even if improper. It found as fact that the abandonment was "based on unfair conditions due to wind shifts, and its belief that the location of the RC boat relative to the starting mark and the finish line (leeward gate) made the location of the finish line uncertain, and therefore unfair." It also found that the RC considered the consequences for all boats in the race before abandoning the race. The protest committee concluded that abandoning the race was not an improper action of the RC.

The appeals committee agrees that the abandonment by the race committee of the race was done in accordance with rule 32.1. Furthermore, the only argument presented that Lightning 14174's score was made worse by the abandonment of Race 2, was "This would not likely change the regatta top 10 positions but it may make a difference in the middle". Lightning 14174 has not met the requirements for redress under rule 62.2.

Lightning 14174's appeal is denied.

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

October 8, 2014