



Ontario Sailing Appeal #OS2014-07

Liane 1 v Pegasus

Liane 1 is appealing the decision of the protest committee at the Nepean Sailing Club on 9 October 2014 for a race held on 18 September 2014.

Rule 10 On opposite tacks

Rule 14 Avoiding contact

Rule R2.1 Procedures for appeals and requests; Submission of documents

All boats, whether or not holding right of way, should keep a lookout, particularly in or near the starting area before the warning signal is made.

Summary of the facts found (including additional facts in *italics* provided by the protest committee under rule R5)

1. *The warning signal had not been made.*
2. Liane 1 was on starboard and Pegasus was on port, in the prestart. Both boats were doing 3–4 knots in 9 knots of wind.
3. Neither boat was looking at the other until 5 seconds before contact.
4. Liane 1 yelled “starboard” just before contact.
5. Both boats steered to starboard attempting to avoid each other.
6. Collision occurred between the port bow of Liane 1 and the bow of Pegasus.
7. *Liane 1’s mast came down in three places and there was gelcoat damage along the first half of her port side. The furler on Pegasus was damaged and there was damage to her pulpit and also deck level damage on her starboard bow and side.*
8. Serious damage occurred to both boats. Nobody was hurt on either boat.
9. *Neither boat started the race.*

The protest committee concluded that

1. Pegasus broke rule 10 and the first sentence of rule 14;
 2. Neither boat was keeping a proper watch;
 3. Liane 1 broke the first sentence of rule 14 by not keeping sufficient watch to determine that Pegasus was not keeping clear;
- and disqualified both boats.

The protest committee later reopened the hearing and applied the preamble to the rules of Part 2 to the incident, which states that a boat not racing cannot be penalized for a breach of a rule of Part 2 except rule 24.1, and changed the score for both boats to DNS.

Liane 1 appealed claiming the protest committee’s conclusion that she broke rule 14 was incorrect.

Decision of the appeals committee

Firstly, the appeals committee noted that Liane 1's appeal was initially sent to a protest coordinator at NSC, who then forwarded it to Sail Canada. This is contrary to the procedure of rule R2.1 which requires the appellant, not a Sail Canada member club, to send an appeal to the national authority. The appeals committee believes the appellant was given incorrect advice by the protest coordinator, and her appeal should not be refused on this technicality because she may have been misled. The appeals committee then proceeded to decide Liane 1's appeal.

The protest committee found as fact that neither boat saw the other until 5 seconds before contact, and that Liane 1's attempt to avoid contact and her hail were made immediately before contact. These facts support the conclusion that Liane 1 broke rule 14 because it was reasonably possible for her to avoid contact with Pegasus had she been keeping a lookout and thus would have seen Pegasus sooner.

Liane 1's appeal is denied.

25 November 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