



Ontario Sailing Appeal #OS2015-05

Wayfarer 3854 Request for redress

Wayfarer 10963 is appealing the decision of the protest committee at the Cobourg Yacht Club on 25 July 2015 for a race held on the same day.

Definition, Party

Rule 62.1(a) Redress

Rule 64.2 Decisions on Redress

Rule 70.1 Appeals and Requests to a National Authority

Sail Canada Appeal 44

A boat may appeal a protest committee's decision only when she was a party to the hearing.

Wayfarer 3854 requested redress claiming there was an improper action or omission by the race committee when it left the dock displaying a placard with the numeral four, indicating that the race would be four legs in length, subsequently changing the display to a placard with the numeral two, without a sound signal.

The protest committee found as fact that the placard indicating 2 legs for the race was clearly displayed approximately 10 minutes prior to the start of the race. It concluded that the RC boat left the dock with a "4" placard displayed. No signal was made when the placard was replaced with a "2" unfairly affecting a portion of the fleet. The protest committee then abandoned the race.

Wayfarer 10963 did not request redress from the protest committee's decision to abandon the race. Instead, she appealed directly to Sail Canada. Her appeal was delegated to the Ontario Sailing Appeals Committee for a decision.

Decision of the appeals committee

According to the definition, Party, W10963 was not a party to W3854's request. Therefore W10963 does not have right to appeal the protest committee's decision under rule 70.1(a). Her appeal is dismissed. Sail Canada Appeal 44 refers.

The appeals committee also makes the following observations:

1. W10963's only recourse was to deliver a written request for redress of her own claiming that her score was made worse by the protest committee's decision on W3854's request. After hearing that request, refusal or dismissal of that request could be appealed under rule 70.1.

2. The protest committee erred in granting redress to W3854. Its facts do not lead to the conclusions that there was any improper action or omission by the race committee, that any worsening of W3854's score was through no fault of her own, or that W3854's score was indeed made significantly worse at all, which are requirements of rule 62.1(a).
3. The protest committee did not follow rule 64.2 when it granted W3854's request. It abandoned the race without taking evidence from appropriate sources which should have included the other boats and the race committee, and it did not make as fair an arrangement as possible for all boats affected, whether or not they asked for redress.
4. After finding that a portion of the fleet were unfairly affected, the protest committee could have called a hearing to consider redress under rule 60.3(b). In that case, the other boats then become parties to the hearing with the right to appeal under rule 70.1(a).

OS Appeals Committee:

Ms. Wendy Loat, NJ, Chairman

Ms. Kathy Dyer, IJ

Mr. Robert Stewart, IJ

Ms. Katie Nicoll, NJ

Mr. Peter Wood, NJ

•• September 15, 2015