



Ontario Sailing Appeal #OS2017-08

Sea Ya v Rhumb Punch

Sea Ya is appealing the 18 October 2017 decision of the protest committee at the Etobicoke Yacht Club from an incident in a race on 10 October 2017. The appeal was delegated by Sail Canada to the appeals committee of Ontario Sailing for a decision.

Rule 10 **On Opposite Tacks**
Rule 14 **Avoiding Contact**
Rule 16.1 **Changing course**
Rule 64.1(a) **Decisions; Penalties and exoneration**
Rule 70.1(a) **Appeals and requests to a National Authority**
Rule R5 **Inadequate facts; Reopening**
World Sailing Case 92

A right-of-way boat may not change course in a manner that deprives a give-way boat of the room she needs to keep clear.

Summary of the Facts

Sea Ya is a Farr 39. Rhumb Punch is a Hobie 33. Both boats protested and the protests were heard together.

The wind was north at 12 knots, gusting to 15. Seas were flat.

Sea Ya was close hauled on starboard tack approaching the starting line. Rhumb Punch was reaching on port tack below the starting line, on a converging course.

Rhumb Punch altered course to leeward to pass below Sea Ya. Sea Ya altered course to leeward. Rhumb Punch altered course to windward and was going to pass one boat length to windward of Sea Ya.

As the boats closed, Sea Ya unexpectedly and quickly rounded up in a gust. Sea Ya's bow made contact with Rhumb Punch in her starboard rear quarter, causing a large hole in her hull just above the waterline. Rhumb Punch took on water through the hole.

There were no injuries. Both boats retired.

Decision of the protest committee

When Sea Ya, the right of way boat, changed course by rounding up, she did not give Rhumb Punch room to keep clear, breaking rules 14 and 16.1. Both boats retired, there is no further penalty.

Sea Ya appealed claiming the protest committee failed to consider rule 10, did not apply rule 14 to Rhumb Punch and incorrectly found that Sea Ya broke rule 16.1. The remainder of her appeal disputes the facts found by the protest committee.

Decision of the appeals committee

Appeal denied. The protest committee found as fact that Rhumb Punch's change of course to windward would have taken her one boat length to windward of Sea Ya. It was Sea Ya's sudden change of course to windward, whether accidental or intentional, that caused the two boats to again be on collision courses and deprived Rhumb Punch of the room she needed to keep clear of Sea Ya. The protest committee's conclusion that Sea Ya broke rule 16.1 is supported by these facts. The facts also support the conclusion that Sea Ya broke rule 14 because she did not avoid contact when it was reasonably possible to do so.

The protest committee did not come to a conclusion regarding Rhumb Punch and rule 10. The facts show that Rhumb Punch made two course changes attempting to keep clear of Sea Ya on starboard tack. Even if it had concluded that Rhumb Punch broke rule 10, she would be exonerated for her breach by rule 64.1(a) because Sea Ya's breaches of rules 14 and 16.1 would have compelled Rhumb Punch to break rule 10.

World Sailing Case 92 discusses the obligations of a keep-clear boat under rule 10 and other right-of-way rules. "A keep-clear boat is required to act only in response to what a right-of-way boat is doing at the time, not what the right-of-way boat might do subsequently." As in Case 92, Rhumb Punch was keeping clear by changing course in such a way that Sea Ya would have had no need to take avoiding action had she not changed course towards Rhumb Punch.

The protest committee also did not come to a conclusion regarding Rhumb Punch and rule 14. The fact that Sea Ya changed course quickly and unexpectedly and her bow hit Rhumb Punch in her rear quarter demonstrates that there was nothing Rhumb Punch could have done to avoid contact with Sea Ya, therefore Rhumb Punch did not break rule 14.

The appellant's disagreement with the facts found by the protest committee cannot be accepted as a valid reason for appeal. Rule 70.1(a) permits a party to appeal a protest committee's decision or its procedures, but not the facts found. Rule R5 compels the national authority, or in this case the appeals committee of Ontario Sailing, to accept the protest committee's finding of facts except when it decides they are inadequate. As noted above, the appeals committee is satisfied that the facts adequately support the protest committee's conclusions.

OS Appeals Committee:

Ms. Wendy Loat, NJ, Chair

Ms. Kathy Dyer, IJ

Mr. Robert Stewart, IJ

Mr. Peter Wood, NJ

1 December 2017