



Ontario Sailing Appeal #OS2019-01

Volace vs. Abracadabra

Volace is appealing the 11 July 2019 decision of the protest committee at the Queen City Yacht Club from an incident in a race on 26 June 2019. The appeal was delegated by Sail Canada to the appeals committee of Ontario Sailing for a decision.

- Rule 11** **On The Same Tack, Overlapped**
- Rule 12** **On The Same Tack, Not Overlapped**
- Rule 14** **Avoiding Contact**
- Rule 15** **Acquiring Right of Way**
- Rule 64.1(a)** **Decisions; Penalties and exoneration**
- Rule 70.1(a)** **Appeals and requests to a National Authority**
- Rule R5** **Inadequate facts; Reopening**

An appeals committee may derive additional facts by logical deduction.

When the facts found by the protest committee do not provide enough detail for an appeals committee to understand the incident and apply the rules, they are inadequate.

Summary of the Facts

(Including revised and additional facts, in *italics*, provided by the protest committee under rule R5)

Veloce is C&C 33-2. Abracadabra is a J-35. *Both boats protested each other and the protests were heard together*

The wind was 10 to 14 knots, with flat sea.

Abracadabra and Veloce were on starboard *close hauled* tack heading towards the start line within 30 or fewer seconds to the start. *The boats were overlapped approximately 10 to 15 feet for some 10 seconds.*

Abracadabra was to leeward to Veloce and behind clear astern of her.

Abracadabra was sailing faster than Veloce.

The witness heard the skipper of Abracadabra call Veloce to go up several times.

Abracadabra obtained an overlap on Veloce *from clear astern.*

Veloce bore away momentarily, speeding up and broke the overlap *by a few feet.*

When Veloce returned to her heading, slowing down, Veloce was clear ahead of Abracadabra.

Abracadabra had more speed and struck Veloce in her stern about 10 inches from the port *side.* Veloce suffered damage *to her push-pit railing and two of the fasteners holding the*

*push-pit to the deck had clearly been partly pulled from their seated positions.
Abracadabra merely scuffed*

Abracadabra attempted to bear off to avoid contact and did not have opportunity to avoid contact.

Neither boat took a penalty and both boats finished the race

Decision of the protest committee

Since the boats were overlapped, rule 11 applies and Veloce must keep clear of Abracadabra. Once Veloce maneuvered and broke the overlap, rule 12 then applies, subject to rule 15.

So Veloce must initially give Abracadabra room to clear, which did not so Veloce is in violation of rule 15.

Abracadabra attempted to keep clear by steering down, thus complying with the obligations under rule 14.

Veloce appealed the protest committee decision by requesting that the decision be reviewed by Sail Canada.

Decision of the appeals committee

The appeals committee determined the facts found were inadequate and asked the protest committee to provide additional facts found under R5. Additional facts provided as a result of the request are noted above.

These additional facts did not add clarity to the protest decision. The appeals committee assessment is that the facts found do not clearly support the conclusion and decision which was made.

Therefore, Volace's appeal is upheld. Queen City Yacht Club is required to conduct a new hearing of Volace's protest and Abracadabra's protest with a different protest committee, according to rule 71.2 (national authority decisions). The new committee shall be appointed by the appeals committee and will consist of at least two certified Sail Canada judges.

OS Appeals Committee:

Ms. Wendy Loat, NJ, Chair

Mr. Greg Dargavel, NJ

Mr. Robert Duggan, NJ

Ms. Katie Coleman Nicoll, NJ

Mr. Robert Stewart, IJ

Mr. Peter Wood, NJ

13 September 2019