

Appeal- Swamp Dog vs. Whangarei Cruising Club Protest Committee

Background.

On 30 June 2013 during Race 5 of the Whangarei Cruising Club Winter Series the Race Officer changed the course after the start. This was advised to competitors via VHF channel 77. Swamp Dog did not receive the radio transmission and did not sail the changed course.

Swamp Dogs request for redress was denied by the Protest Committee.

Discussion.

The sailing instructions for the regatta included the following:

1. The Racing Rules of Sailing 2013-2016 shall govern racing
2. All communications shall be VHF 77

The sailing instructions did not amend rules 32 or 33 as the procedure prescribed in rule 86.1(b) was not followed.

The appeal submission of the Race Officer says “the protestor acknowledged post-race that, except in the late stages of the race, his radio was on a different channel to the race control one.....”

However there is no evidence of this in the facts found.

Conclusion.

The Race Officer made a significant error in not following the racing rules of sailing when signalling the change of course when the published sailing instructions did not allow for this.

Swamp Dogs score in the race was made significantly worse by an improper action of the race committee, but is not clear from the facts found whether there is any fault on the part of Swamp Dog. If her VHF radio was not on Channel 77 at the time of the communication of the change of course then there was fault on her part and she would not be entitled to seek redress.

Decision.

The Protest Committee’s decision is not supported by the facts which are inadequate

The Appeals Panel request the protest committee reopen the hearing and report any new finding of facts in particular in relation to the matters referred to above.

Recommendation

The Whangarei Cruising Club should update their sailing instructions to reflect those outlined in Appendix L (Sailing Instruction Guide) of the ISAF Racing Rules of Sailing. They should also consider rule 90.3 and use the scoring system as defined in Appendix A (Scoring) in the Racing Rules of Sailing unless the sailing instructions specify some other system.