

YACHTING NEW ZEALAND APPEAL 80

BLACKOUT vs WILD BLUE

*An appeal from a decision of the protest committee of
the Tasman Bay Cruising Club on 21 October 2020*

This appeal concerns the rights and obligations of a keep clear boat passing a continuing obstruction. She was on port, converging with a starboard tack boat who was approaching the obstruction. The issue is whether the port boat broke a rule by failing to keep clear, or was the starboard boat required to give her room to sail there?

The facts

The protest committee's factual findings comprise written facts on the back of the protest form and a diagram the protest committee endorsed. The diagram contains further written information about the incident. All that information needs to be read together.

WILD BLUE and BLACKOUT were on a broad reach on port, with BLACKOUT clear astern. Both were sailing parallel to a continuing obstruction (described in the sailing instructions) which was less than half a boat width to starboard.

BLACKOUT then "sailed higher on port away from WILD BLUE" until she was five boat lengths to windward. Then she bore away and gybed onto starboard, back towards the obstruction.

BLACKOUT continued turning to starboard. The endorsed diagram shows that when the boats were approximately half a length apart, BLACKOUT had luffed to an angle slightly lower than 90 degrees from the true wind, converging with WILD BLUE.

BLACKOUT then bore away.

BLACKOUT protested, arguing that WILD BLUE, on port, broke Rule 10.

The protest committee's decision

The protest committee decided that no rule was broken and dismissed the protest.

The appeal

BLACKOUT appealed. She wrote no grounds for her appeal, but instead annexed a copy of World Sailing Case 43. This implies that her ground of appeal is that the protest decision was contrary to Case 43.

Discussion

The rules that apply depend on whether BLACKOUT and WILD BLUE were overlapped.

Under the definition of *Clear Astern and Clear Ahead; Overlap* in the Rules, boats "overlap" when neither are "clear astern" of the other. However, those terms apply to boats on opposite tacks only when Rule 18 applies between them or when both boats are sailing more than ninety degrees from the true wind.

In the present case, the protest committee's facts are that at the critical times both boats were sailing below 90 degrees from the true wind. They were overlapped.

As the boats were overlapped, the outside boat, BLACKOUT, was required to give the inside boat, WILD BLUE, room between her and the obstruction under Rule 19.2(b). That applies even though BLACKOUT was on starboard tack and WILD BLUE was on port. BLACKOUT gave room by bearing away when the boats were half a length apart. Neither Rule 10 nor 19.2(b) were broken.

The protest committee also referred to Rule 19.2(c). That rule provides that when passing a continuing obstruction, if a boat clear astern, who is required to keep clear, becomes overlapped between the other boat and the obstruction, and there is not room for her to pass between them when the overlap began, the inside boat is not entitled to room. As the protest committee noted, WILD BLUE had room between BLACKOUT and the obstruction when the overlap began. Also, before the overlap, WILD BLUE was clear ahead rather than clear astern. She was entitled to room.

Even if BLACKOUT had managed to luff to a course above 90 degrees from the true wind, she would still have needed to give WILD BLUE room, under Rule 16.1, as a right of way boat changing course.

World Sailing case 43, that BLACKOUT relies upon, is distinguishable. In that case, the converging boats were on different tacks, sailing above 90 degrees from the true wind, so they were not overlapped. Rules 19.2(b) and (c) did not apply.

It follows that the Protest Committee correctly decided that no rule was broken.

Appeal Decision

The appeal is dismissed.

Appeals Panel

John Grace (chair)

Mike Alison

Wayne Boberg

Colette Kraus

Jack Lloyd



John Grace
Chairman of Appeals Panel

22 January 2020