

APPEAL No 2013/001

SI 15.1, Protests and Requests for Redress

Definitions, *Interested Party*

Rule 60.1, Right to Protest: Right to Request Redress

Rule 61.3, Protest Requirements: Protest Time Limit

Rule 62.1(a) and 62.2, Redress

Rule 63.3, Right to be Present

Rule 63.4, Interested Party

SUMMARY OF THE FACTS

In a qualifying series comprising 21 races, P was unable to sail in eleven races due to the failure of the Organising Authority, namely RHKYC, to deliver his boat to the race venue. P requested redress by reason that he had been denied the opportunity to compete. The time limit for delivering a request for redress under Rule 62.2, was, by RHKYC standard sailing instruction 15.1.1:

Protest 1: 17:48:40hrs, on Saturday, 27th October 2012.

Protest 3: 16:53:00hrs, on Saturday, 17th November 2012

Protest 4: 17:27:21hrs, on Saturday, 24th November 2012

The time limit for delivering a request for redress under Rule 62.2 for Protest 2, was, by F15 Class Championship sailing instruction 16.3, 1 hour after the committee boat returned to the pontoon on 3rd & 4th November 2012.

Sailing Instruction 15.1 provides that protest forms are available in the 3 clubhouses of the organizing authority. (The race venue was near one of the 3 clubhouses.) It also provides that protests and requests for redress "shall be delivered to the race officer, or any member of the race committee or, in their absence, to the relevant class officer."

According to an email from the P to HKSF, requests for redress were submitted by post to RHKYC on the following dates:

Protest 1: 27 October 2012

Protest 2: 3 November 2012

Protest 3: 17 November 2012

Protest 4: 24 November 2012

All 4 hearings were held together on 10 December 2012. During the hearing the RHKYC stated that it had no knowledge of any of the requests for redress until it received a copy of the email sent by P to the HKSF.

The hearing was held at the scheduled time, after postponing for 30 minutes to allow time for P to appear. P did not attend the hearing either by a representative or written submission, and gave no reason to the committee for his absence on the day. No reason was given for the delay in submitting his request for redress. There was no objection to any member of the protest committee. The other party was represented.

The protest committee found that the protests or requests were invalid. P appealed.

In his appeal submission, P stated that as he is not a member of RHKYC he could not set foot on any RHKYC premises and therefore it was physically impossible for

him to submit the protest in the regular manner. He stated that he had therefore sent the protests to the Club by email and followed up with hard copies by post. He stated on each protest form that that protest had been submitted by "email to fleet secretary". No evidence to support these statements was provided. Thus the PC could not take this into consideration.

P further objected to every member of the Club (and by implication the members of the protest committee) being an interested party. He gave reasons for not attending the hearing but not for failing to send a representative or make a written submission for consideration by the committee.

FOOTNOTE

Based on the number of entries received by the entry deadline, the FF Worlds, for which this series of races served as qualifiers, became an open event per the HKFFA selection criteria. This was posted on the RHKYC website in June 2013. Effectively any sailor who wants to enter the event may do so and the selection criteria never needed to be imposed.

DECISION

P's appeal is dismissed.

GROUND FOR DECISION

No evidence was provided of any of the four protest forms being submitted within the time limit, or even within a reasonable period of time afterwards. Without the presence of P, or his representative, and in the absence of written submissions from him, the committee could find no good reason to extend the time for delivering the request and applied Rule 62.2 and SI15.1 (or 16.3 in the case of the Class Championships). This logic cannot be faulted.

The objection to the members of the protest committee was not known by the committee or at the hearing. If a member is an *interested party*, by Rule 63.4, he shall not take part in the hearing. Being a member of the organizing Club committees does not make the members an *interested party*; he must gain or lose as a result of the decision or have a close personal interest in the decision.

HKSF RR&AC
October 2013