



## Ontario Sailing Appeal #OS2009-04

### Black Dog vs Windraker

Black Dog is appealing a decision of the protest committee on 15 August 2009 from a race on the same day of the Shark Provincial Championship at the Oakville Yacht Squadron.

#### **Definition Mark-Room**

#### **Definition Proper Course**

#### **Rule 10 On Opposite Tacks**

#### **Rule 18.2 Giving Mark-Room**

*An inside overlapped, give-way boat entitled to mark-room may only take room to sail a proper course while at the mark, not room to sail the course of her choosing while in the zone. When a give-way boat has a choice of courses, her proper course is the course that allows her to keep clear of a right-of-way boat as well as finish as soon as possible.*

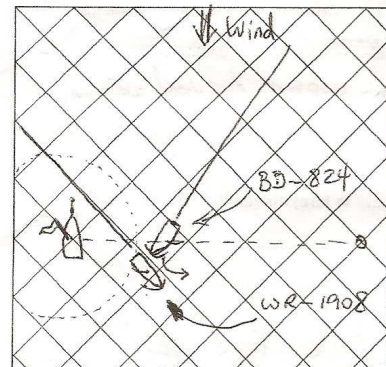
#### **Summary of the facts**

1. Windraker on port tack, was finishing within three boat lengths of the race committee boat.
2. Black Dog on starboard tack, was finishing on a converging course with Windraker.
3. Black Dog altered course on the finishing line to avoid contact with Windraker – there was no contact.
4. Windraker finished and cleared the finishing line inside the zone.

#### **Decision of the protest committee**

Protest dismissed. Black Dog was obliged to give Windraker mark-room and did so. Rules 18.1 and 18.2(a). The protest committee endorsed Black Dog's diagram.

Black Dog appealed, claiming the protest committee failed to apply rule 10, incorrectly applied rule 18.2 and the definitions of mark-room and proper course.



### **Decision of the appeals committee**

Windraker was overlapped inside Black Dog when Windraker reached the zone, therefore Windraker was entitled to mark-room according to rule 18.2(b). Windraker on port, was required by rule 10 to keep clear of Black Dog, on starboard.

That Windraker had room to sail to the mark is not in dispute. When she reached the mark, she continued to sail a straight line course away from the mark, and in doing so, caused Black Dog to change course to avoid her, breaking rule 10. Being entitled to mark-room allows an inside give-way boat room to sail her proper course while at the mark, not room to sail the course of her choosing while in the zone. The definition of zone is useful only in determining if rule 18.2(b), 18.2(c) or 18.3 applies.

A straight line course to the finishing line was one possible course for Windraker to sail to finish as soon as possible. Bearing away at the mark was also a course that she could have sailed to finish as soon as possible. When a give-way boat has a choice of courses, her proper course is the course that allows her to keep clear of a right-of-way boat as well as finish as soon as possible.

Windraker had adequate space to bear away at the mark and to keep clear of Black Dog. By sailing a straight line course away from the mark, she was not sailing her proper course and took more room than necessary to pass between the mark and Black Dog in a seamanlike way. Windraker's breach of rule 10 was not the result of a failure by Black Dog to give her mark-room.

Both boats had finished according to the definition of finish. According to the definition of racing, Black Dog was racing because she had not yet cleared the finishing line and marks at the time of the incident. The facts are unclear to determine if Windraker was racing or not racing at the time of the incident. From CYA Appeal 9, it is clear that if Windraker was not racing when she broke rule 10, she certainly interfered with a boat that was racing, breaking rule 23.1 and would be penalized for that breach.

Appeal upheld. Black Dog gave Windraker room to sail to the mark and room to sail a proper course while at the mark. Windraker took more room than necessary to sail that course. Windraker on port, did not keep clear of Black Dog on starboard, and is disqualified for breaking rule 10. Because Windraker took more room than she was entitled to and was not on her proper course, she cannot be exonerated for her breach of rule 10, by rule 18.5(b).

October 15, 2009

### **OS Appeals Committee:**

Mr. Andrew Alberti, SNJ, Chairman

Ms. Kathy Dyer, IJ

Mr. Alex McAuley, IJ

Ms. Janet McDougall, SNJ

Dr. Mel Preston, SNJ

Mr. Peter Wood, SNJ