

NORTHERN TERRITORY RACING COMMISSION

Reasons for Decision

Complainant:	Mr K
Licensee:	Lottoland
Proceedings:	Gambling Dispute for determination by Racing Commission (pursuant to section 85(2) of the <i>Racing and Betting Act</i>)
Heard Before: (on papers)	Ms Cindy Bravos (Presiding Member) Ms Amy Corcoran Mr Allan McGill
Date of Decision:	15 January 2020

Background

1. On 3 December 2018, pursuant to section 85(2) of the *Racing and Betting Act* (the Act), the complainant lodged a gambling dispute with the Northern Territory Racing Commission (the Commission) against the licensed sports bookmaker, Lottoland.
2. At that time, the complainant advised a Licensing NT officer appointed as a betting inspector by the Commission that when he attempted to open a new account with Lottoland, he did not receive confirmation that his account had been opened or that a bet had been accepted prior to his computer switching off. The complainant sought, “...access to the information that [he] had contributed to this process to ensure there was no error on [his] part.”
3. As a result of inquiries undertaken by the Commission’s betting inspector with both the complainant and Lottoland, on 7 December 2018 the betting inspector advised the complainant that advice received from Lottoland was that the complainant had opened a betting account with Lottoland at 11:50 am (AEDT) on 1 December 2018 and at 11:51 am the same day, he had placed a bet on the outcome of the MegaMillions draw. The complainant was further advised to make contact directly with Lottoland if he had any further queries in relation to the matter.
4. On 11 December 2018, the complainant contacted the Commission’s betting inspector and advised that he had sought screenshots from Lottoland of the process that, “...enabled my account and subsequent bet” however, Lottoland did not provide him with this.
5. On 4 January 2019, the complainant forwarded a number of emails that he had received from Lottoland dated 1 December 2018 to the Commission’s betting inspector, as follows:
 - (i) a ‘Welcome to Lottoland’ email thanking the complainant for “...joining us at Lottoland” (sent to the complainant at 11:50);
 - (ii) a ‘Bet Confirmation’ email detailing that the complainant had placed a bet on the outcome of the MegaMillions draw scheduled for later that day with a stake of \$15 which had been paid via Visa (sent to the complainant at 11:51);

- (iii) an 'Age Verification' email requesting that the complainant provide a copy of his identification and proof of address (sent to the complainant at 12:01); and
 - (iv) a 'Results for Bet' email advising the complainant to check the results of the bet that he had placed (sent to the complainant at 18:01).
- 6. On 9 January 2019, the Commission's betting inspector advised the complainant that Lottoland had advised that it had refunded \$15 into the complainant's account and that the complainant's matter was considered closed.
- 7. On 10 January 2019, the complainant again contacted the Commission's betting inspector and advised that he considered the refund of \$15 to be unacceptable and that he was seeking evidence from Lottoland to justify the withdrawal of funds from his bank account claiming that, "*...the withdrawal of funds from my bank account without the procedure being transparent and proof of this, is my main concern as it amounts to theft or at least cheating.*"
- 8. On the same day, the complainant also sent to the Commission's betting inspector, copies of email correspondence between Lottoland and himself dated between 10 December 2018 and 10 January 2019 in which the complainant had also sought, "*...screen shots of each step of the process to confirm that my bet and new account were valid at the time of the draw.*" In response, Lottoland provided the complainant with screenshots of the process by which Lottoland customers create a betting account, add a card to make a deposit and place a bet. Lottoland advised the complainant that, "*...we are unable to take screenshots of your screen at the time you entered these details*" and that as a goodwill gesture, Lottoland had decided to refund the \$15 that the complainant had deposited into his account and then used to place a bet.
- 9. On 21 January 2019, the Commission's betting inspector wrote to the complainant advising that on the evidence before him which included that the complainant had confirmed that he had opened an account, provided bank details to the sports bookmaker and attempted to strike a bet, that he considered that this suggested that the complainant authorised the transaction on his bank account and that his gambling dispute was closed.
- 10. In response, on 22 January 2019 the complainant advised the Commission's betting inspector that he only acknowledged that he had attempted to open an account with Lottoland and that he had not authorised Lottoland to debit or credit his bank account. The complainant claimed that the actions of Lottoland in doing so amount to, "*...the bookmaker trading in my name without an agreement.*"
- 11. As a result of the complainant's email, the Commission's betting inspector requested Lottoland to provide a screenshot of the log report showing the date and time that the complainant opened the account and when the bet was struck. Lottoland responded to this request by sending the complainant a screenshot of the Lottoland log showing that the complainant had registered an account with Lottoland on 1 December 2018 at 11:50 am, deposited \$15 via Visa and placed a bet of \$15 at 11:51 am.
- 12. In subsequent email correspondence between the complainant and Lottoland, the complainant sought a copy of contract between Lottoland and the complainant. Lottoland responded to this request by providing the complainant a link to its terms and conditions to which it advised that the complainant had been required to agree

to when he opened his account. The complainant responded by again seeking a copy of a contract and screenshots as well as “...*payment of restitution for [Lottoland’s] fraudulent activity as well as compensation for the mental anguish imparted to me via the bookmakers use of my personal; identification.*”

13. Nothing further was heard from the complainant until 23 October 2019 when the complainant phoned the Commission’s betting inspector and left a message to return the call which was done so the following morning during which the complainant continued to question the legality of any contract between Lottoland and himself.
14. The Commission has also been advised that the complainant contacted the Northern Territory Government’s Minister responsible for racing and betting, the Attorney-General and Minister for Justice, the Hon Natasha Fyles MLA advising that he was dissatisfied to date with the responses provided by the Commission.
15. The Commission has been provided with copies of correspondence between the Commission’s betting inspector and the complainant; the Commission’s betting inspector and Lottoland; and correspondence between the complainant and Lottoland and has determined to consider the gambling dispute on the papers before it.

Consideration of the Issues

16. Section 85 of the Act provides the Commission with the jurisdiction to determine disputes between a sports bookmaker and its customer regarding lawful betting. In this respect, section 85 sets out the decision making regime for the making of a determination by the Commission as to whether the disputed bet is lawful and provides that a person may take legal proceedings to recover monies payable on a winning lawful bet or for the recovery of monies owed by a bettor on account of a lawful bet made and accepted.
17. The clear purpose of section 85 is to authorise the Commission following an investigation, to determine whether or not the impugned bet or bets were lawful. As such, the issue before the Commission in this matter is whether the bet struck on the outcome of the 1 December 2018 draw of the MegaMillions was lawful.
18. In this respect it is relevant to note that all sports bookmakers licensed in the Northern Territory are required by the Commission to promulgate a detailed set of terms and conditions for wagering which both parties are bound by when an account is opened and each time a wager is struck. By opening an account with a sports bookmaker, the person opening the account is accepting the sports bookmaker’s terms and conditions as particularised on its website.
19. Of relevance to this matter is that Lottoland’s terms and conditions which were in place on 1 December 2018 set out that:

At the time of registration, the Player enters a contract with Lottoland in relation to the use of the Website, the set up and the management of their Player Account, the placing of Bets, the payment of the Player’s Stakes and the payout of Winnings to the Player. When Lottoland accepts a Player’s Bet, the Player enters a contract with Lottoland

regulating the terms and conditions for all Bets accepted, the rules of the games offered by Lottoland as well as the payout of Winnings

20. In this respect, the complainant acknowledges that on 1 December 2018, he attempted to open a new account with Lottoland in order to place a bet on the outcome of the MegaMillions draw scheduled to take place the same day. The complainant stated that he did not receive confirmation from Lottoland that his account had been opened or that his bet had been accepted prior to his computer 'switching off.' The complainant stated that as he was unable to, *"...log back on and confirm my account and bet I assumed that this account and subsequent bet was erroneous"* and that it was not until he opened his email on Monday 3 December 2018 that he, *"...noticed four emails from [L]ottoland confirming my bet and account."*
21. Lottoland has provided both the Commission and the complainant with a screenshot of Lottoland's log report showing that the complainant's account was registered with Lottoland on 1 December 2018 at 11:50 am. This correlates with the 'Welcome to Lottoland' email sent to the complainant on the same day and time as detailed in paragraph 5 above and which the complainant stated that he did not access until two days later.
22. Lottoland also provided the Commission and the complainant with a screenshot of Lottoland's log report showing that \$15 was deposited into the complainant's account via Visa and that a bet was struck with a stake of \$15 on 1 December 2018 at 11:51 am. This again correlates with the 'Bet Confirmation' email sent to the complainant on the same day and time as detailed in paragraph 5 above.
23. Additionally, the Commission has reviewed its own independent audit logs in relation to the account in the name of the complainant held with Lottoland and notes that the independent audit logs show that a deposit of \$15 was made into the complainant's account on 1 December 2018 which was subsequently used to place a \$15 bet on the outcome of the MegaMillions draw. The independent audit logs record that this bet was a non-winning bet.
24. Given the above, the Commission is unable to come to any other conclusion than that the complainant did open an account with Lottoland on 1 December 2018 to which he made a \$15 deposit that he then used to place a \$15 bet. While the complainant stated that he did not access emails from Lottoland until several days later, it is clear that they were sent to the complainant at the time he opened the account and at the time he placed the \$15 bet.
25. The Commission approves the terms and conditions of sports bookmaker licences which include the terms and conditions of agreements entered into between sports bookmakers and their customers. While the complainant has continually requested a copy of the contract that he entered into with Lottoland and screenshots of him doing so, the terms and conditions that the complainant agreed to when opening the account with Lottoland, clearly state that a Lottoland player enters into a contract with Lottoland at the time of registration of the account and upon Lottoland accepting a bet from the Lottoland player. These terms and conditions do not require that a written contract be promulgated each time a contract is created between the two parties.

26. The jurisdiction of the Commission in this matter is to determine whether the bet placed by the complainant was lawful. The Commission's jurisdiction does not extend to whether a remedy is available to any of the parties that would see them entitled to avoid the obligation being pursued such as a claim that the contract was invalid. The Commission does note that in an attempt to resolve this gambling dispute, Lottoland did refund the full amount of the complainant's bet being \$15.

Decision

27. As detailed above, the Commission is authorised, following an investigation, to declare that a disputed bet is lawful or not lawful so far as the requirements of the Act are concerned. It is not authorised to declare that a bet is not lawful on the basis of a breach of some contractual arrangement between the parties where the contractual arrangement falls outside the scope of the Act.
28. In examining the evidence before it, the Commission is satisfied that the bet struck on 1 December 2018 with Lottoland by the complainant on the outcome of the MegaMillions draw that occurred on the same day, was a lawful albeit, non-winning bet.

Review of Decision

29. Section 85(6) of the Act provides that a determination by the Commission of a dispute referred to it pursuant to section 85 of the Act shall be final and conclusive as to the matter in dispute.



Cindy Bravos
Presiding Member
Northern Territory Racing Commission

15 January 2020