

**Appeal OSA 2001-02
Albacore 7971 vs Albacore 8014
Decision**

Appeal Request:

1. Albacore #7971 has entered an appeal to a Protest Hearing held at the St. James Town Sailing Club, Toronto on June 15, 2001 which was a protest from the June 15th Friday night race.
2. #7971 is appealing the results of this Protest hearing and that the Protest Committee was in error in its conclusions and Rules interpretations.

Situation and Protest Committee Decision:

#8014 was approaching the weather mark near the Port lay line with two other boats just inside of her. The inside port tack boat was clear ahead of the other two. #8014 tacked clear ahead of #7971 within the two-length zone. The committee could not establish that #7971 luffed above close hauled to avoid #8014. No rule was broken. Protest was dismissed.

Appeals Committee Response:

- (a) This is a case of the Protestor disputing the Facts found which is not permitted under the RRS rules of Appeal (RRS 70.1)
- (b) The Protest committee could not establish that #7971 luffed above close-hauled to avoid #8014, and properly applied RRS 18.3(a) to dismiss the protest.
- (c) Contradictory evidence frequently is given by different parties at a protest hearing, due to different points and angles of view, and different focuses of attention of the witnesses at the time of the incident. Without strong evidence to the contrary, the protest committee does not interpret evidence that contradicts the facts found to be grounds for an investigation of a gross breach of a rule or of good manners or sportsmanship. There was no fact found that would support the need for a Rule 69 investigation or hearing.

Appeals Committee Decision:

The Appeal by #7971 is dismissed, and the decision of the Protest Committee is confirmed.

