

NOTE: This case does not apply until 1st January 2021 when the RRS 2021 – 2024 start to apply

RYA 2021/1

Rule 60.3, Right to Protest; Right to Request Redress or Rule 69 Action

Rule 61, Protest Requirements

Rule 62, Redress

Rule 63, Hearings

Rule 64.1(c), Decisions: Standard of Proof, Majority Decisions and Reclassifying Requests

Rule 66, Reopening a Hearing

Abstract:

Questions concerning changing the type of hearing during a hearing.

Summary of the Situation

A case can be conducted by a protest committee as one or more hearing types:

- to decide a protest (a protest hearing),
- to consider redress (a redress hearing),
- to consider whether a support person has broken a rule,
- to consider a request to reopen a hearing.

Rule 64.1(c) applies to the above hearing types and permits the protest committee to change the type of hearing during the hearing when appropriate.

- to consider allegations of misconduct (a rule 69 hearing).

Rule 69 hearings can only be initiated in accordance with rule 69.2; rule 64.1(c) does not apply and a rule 69 hearing cannot be changed into a hearing of another type. A rule 69 hearing cannot be combined with any other type of hearing (see rule 63.2).

Question 1

What determines the type of a hearing?

Answer 1

Rule 64.1(c) says that the hearing type is determined by the information provided in the written request for a hearing or allegation and by testimony given during the hearing:

A protest is an allegation that a boat has broken a rule. The information required by rules 61.2(a) and (b) must be provided in writing before the hearing begins. The information required by rules 61.2(c), (d) and (e) may be provided by testimony during the hearing. The protestor must also have complied with the requirements of rules 61.1 and 61.3.

Consideration of redress can be initiated either by a written request for a hearing that complies with rule 62.2, or directly by a protest committee acting under rule 60.3(b).

Consideration of whether a support person has broken a rule is initiated directly by a protest committee acting under rule 60.3(d).

Consideration of a request to reopen a hearing is initiated by a written request for a hearing that complies with rule 66.2.

Question 2

Is a hearing restricted to considering one type of case?

Answer 2

No.

A hearing may consider more than one type of case simultaneously, provided that the specific requirements for each type have been met as described in Answer 1 and the cases arise from the same incident or from very closely related incidents (see rule 63.2).

During a hearing, if testimony indicates that considering the case under an additional, or different, hearing type may be appropriate, the protest committee may continue the hearing on that basis (see rule 64.1(c)).

However, at the beginning of a hearing, or when considering a change to a new hearing type, the protest committee must consider the written request, if applicable, and decide which types of hearing may be appropriate to the case. It must then decide if the case is valid for each of those hearing types, by considering appropriate testimony and the rules that govern each hearing type.

Question 3

Does a change of hearing type under rule 64.1(c) override the validity requirements for the new hearing type?

Answer 3

No.

A protest committee that changes a hearing to include a new hearing type must ensure that the requirements of rule 63 are met for the new hearing type; if they are not, the hearing must be adjourned until those requirements are met.

The protest committee must also consider the validity requirements of the case under the new category. If any of the validity requirements for a hearing type are not met, the protest committee must decide that the case is invalid for the new hearing type concerned and stop considering the case under that hearing type. It may continue to consider the case under any other hearing types for which it is valid.

Question 4

Does rule 64.1(c) allow a request for redress to be changed into a protest.

Answer 4

If, during a redress hearing, testimony suggests that a boat may have broken a rule, the protest committee must consider whether the written request for a hearing meets the requirements for a protest (see Answers 1 and 3) together with any other validity requirements in rule 61.1.

If these requirements are met in full then the request is a valid protest and the protest committee can continue to hear the case as a protest.

If any of these requirements are not met, there is no valid protest and the protest committee cannot hear the case as a protest.

A new protest from the protest committee cannot be created from testimony given in the request for redress because the protest committee is prohibited by rule 60.3(a) from protesting a boat as a result of information it learns in a request for redress, unless it learns also that the incident may have resulted in injury or serious damage.

Question 5

Does rule 64.1(c) allow a protest to be changed into a request for redress.

Answer 5

If during a protest hearing, testimony suggests that a party to the hearing may be eligible for redress but has not requested it, the committee is permitted by rule 60.3(b) to call a new hearing to consider redress for that boat. The new redress hearing can continue concurrently with the existing protest hearing (see rule 63.2).