

Northwest Territories Liquor Licensing Board

IN THE MATTER of Heritage Hotel – Canoal Lounge Licensed Premises, and
Licence # 2011-A-01

AND IN THE MATTER of the *Liquor Act* S.N.W.T. 2007, c.15 (“the Act”) and the
Liquor Regulations, R-069-2008 (“the Regulations”);

AND IN THE MATTER a hearing before the Liquor Licensing Board;

REGARDING:

Whiponic Northern Cartrols Inc.

Licence Holder

and

Heritage Hotel – Canoal Lounge

Licensed Premises

The Liquor Licensing Board, having conducted a hearing on the 8th day of December 2011 in the Town of Norman Wells, has found:

The Licence Holder has failed to comply with:

Section 46(1)(c) of the Regulations; “No holder of a premises licence shall sell, serve or allow the consumption of liquor in the licensed premises while the polls are open on the day fixed for... an election for a member of the Legislative Assembly of the Northwest Territories, if the licensed premises are located within the electoral district where the election is being held.”

ORDER

IT IS HEREBY ORDERED pursuant to section 30 of the Act:

1. The Licence Holder shall pay a compliance penalty in the amount of three hundred dollars (\$300) on or before January 8, 2012.

Dated at the City of Yellowknife, this 5th day of January 2012.

Colin Baile, Chairperson, on behalf of and with the concurrence of the other panel members.

Northwest Territories Liquor Licensing Board

IN THE MATTER of Heritage Hotel – Canoal Lounge Licensed Premises, and
Licence # 2011-A-01

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Reasons for Decision

Liquor Licensing Board Case #: 11-009

Date of Inspection: October 3, 2011

Heard at Norman Wells, NT on the 8th day of December, 2011

Panel Board Members:

Colin Baile
Wayne Smith
Stanley Jones
Albert Monchuk

Appearances:

Sarah Kay – Counsel for the Government of the Northwest Territories (Enforcement)
James Ulch – Representing the Licence Holder

Preliminary Matters

At hearing, the parties submitted an Agreed Statement of Facts. The Notice of Hearing contained two Counts. The Government of the Northwest Territories withdrew Count #2 alleging non-compliance of section 57 of the *Regulations*.

Enforcement Evidence

Counsel for the Government of the Northwest Territories ("*Enforcement*") submitted an Agreed Statement of Facts. A summary of the Statement included:

- On October 3, 2011 the Territorial Election was held. At approximately 5:15pm on that day, Inspector Alexis Peachey conducted a liquor inspection of the Licensed Premises.
- On September 30, 2011, the Liquor Enforcement Office had sent a reminder letter by fax to all Licence Holders reminding them of the regulations regarding the sale or service of liquor on Election Day.
- Inspect or Peachey observed the door to the Lounge was slightly open. She observed two people sitting at a table with alcoholic drinks in front of them.
- Mr. Ulch, the owner of the Licensed Premises, was having his evening meal with another person. He was having a glass of wine with his meal. He acknowledges the door to the Lounge was open about eight inches.

Enforcement also submitted at hearing:

- A copy of the Notice of Hearing and proof of service;
- A copy of the Enforcement notice;
- A copy of Inspection Report #40570; and

- A copy of Liquor Licence # 2011-A-01.

Analysis

Section 46(1)(c) of the Regulations states; “No holder of a premises licence shall sell, serve or allow the consumption of liquor in the licensed premises while the polls are open on the day fixed for... an election for a member of the Legislative Assembly of the Northwest Territories, if the licensed premises are located within the electoral district where the election is being held.”

In this case, the consumption of liquor was “allowed” in the Licensed Premises while the polls were open. We find the charge of non-compliance is made out.

We accept the events of October 3, 2011 are as described in the submitted Statement of Facts. The Licence Holder’s representative has agreed to the facts before the Board.

We shall next address the submissions and considerations regarding penalty.

PENALTY

Summary of Enforcement’s Submissions

- Recommend a \$200 compliance penalty and no suspension of the Liquor License. Recom
- Mitigating factors include this being the Licence Holder’s first offence and the Licence Holder agreed the non-compliance did occur. Mitigat
- This is a minor infraction on the scale of s. 46. This is

Penalty Analysis

We have considered all of the facts and submissions. The most significant of these factors are:

- This is the Licence Holder’s first offence. This is
- Of the three standards, they being the service, sale and allowance, this is a minor violation. Of the
- The Licence Holder’s conduct since the inspection. The

An order shall issue pursuant to section 30 of the *Act* that:

1. The Licence Holder shall pay a compliance penalty in the amount of three hundred dollars (\$300) on or before January 8, 2012.

Dated at the City of Yellowknife, this 5th day of January 2012.

Colin Baile, Chairperson, on behalf of and with the concurrence of the other panel members.