

Northwest Territories Liquor Licensing Board

IN THE MATTER of Papa Jim's Roadhouse, Licensed Premises, and Licence # 2011-B-33

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:

Papa Jim's Roadhouse Inc.

Licence Holder

and

Papa Jim's Roadhouse

Licensed Premises

The Liquor Licensing Board, having conducted a hearing on the 7th day of December 2011 in the City of Yellowknife, 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 7, 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 Papa Jim's Roadhouse, Licensed Premises, and Licence # 2011-B-33

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");

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REGARDING:

Papa Jim's Roadhouse Inc.

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and

Papa Jim's Roadhouse

Licensed Premises

Reasons for Decision

Liquor Licensing Board Case #: 11-011

Date of Inspection: October 3, 2011

Heard at Yellowknife, NT on the 7th day of December, 2011

Panel Board Members:

Colin Baile
Wayne Smith
Stanley Jones
Albert Monchuk

Appearances:

Erin Delaney – Counsel for the Government of the Northwest Territories (Enforcement)
Jim Hudym – Representing the Licence Holder

Preliminary Matters

At hearing, the parties submitted an Agreed Statement of Facts.

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 1753 hours on that day, Inspector Kerry Nicholson 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 Nicholson observed a half full glass of red wine on a table occupied by two patrons.
- The server working that day informed the Inspector he had forgotten the election day regulation.

Enforcement also submitted at hearing:

- A copy of the Notice of Hearing and proof of service;
- Two photographs depicting a glass of wine on a table and the Enforcement notice posted in the kitchen of the Licensed Premises;
- A copy of the Enforcement notice; and
- A copy of Inspection Report #40565.

Analysis

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.

A glass of red wine was clearly served to a patron on the day in question. This action is in violation of section 46 of the *Regulations*.

We shall next address the submissions and considerations regarding penalty.

PENALTY

Summary of Enforcement's Submissions

- Recom
mend a \$500 compliance penalty and no suspension of the Liquor License.
- Mitigat
ing factors include this being the Licence Holder's first offence; the Licence Holder did agree the non-compliance did occur; and, proactive steps were taken to prevent it from happening by posting the Enforcement reminder notice.

Penalty Analysis

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

- This is
the Licence Holder's first offence.
- The
Licence Holder did attempt to avert this event by posting the Enforcement reminder notice for staff to see.
- The
Licence Holder's conduct since the inspection.

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 7, 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.