

Northwest Territories Liquor Licensing Board

IN THE MATTER of The Pelican Boardroom Cafe, Licensed Premises, and
Licence # 2011-B-34

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:

6050 NWT Ltd.

Licence Holder

and

Pelican Boardroom Cafe

Licensed Premises

The Liquor Licensing Board, having conducted a hearing on the 26th day of October 2011 in the
Town of Fort Smith, has found:

The Licence Holder has failed to comply with:

Count #1: Section 92 of the *Act*; "Except as may be permitted in the regulations, a licence holder shall not
allow an intoxicated person to enter or remain in a licensed premises."

Count #2: Section 93 of the *Act*; "No person shall sell or serve liquor at a licensed premises to or for an
intoxicated person."

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 five hundred dollars
(\$500) on or before November 22, 2011.
2. Liquor
Licence # 2011-B-34 shall be suspended for one (1) day for the period of November 22,
2011 at 10:00am until November 23, 2011 at 2:00am. The Licence Holder shall post on
all entrances to the Licensed Premises, for the duration of the suspension, a notice
provided by the Board.

Dated at the City of Yellowknife, this 8th day of November 2011.

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

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REGARDING:

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and

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Reasons for Decision

Liquor Licensing Board Case #: 11-001

Date of Inspection: August 16, 2011

Heard at Fort Smith, NT on the 26th day of October, 2011

Panel Board Members:

Colin Baile
Wayne Smith
Stanley Jones
Lorna Skinner
Albert Monchuk

Appearances:

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

Preliminary Matters

- At hearing, the parties submitted an Agreed Statement of Facts.
- The Notice of Hearing contained three counts. The Government of the Northwest Territories withdrew Count #3 alleging non-compliance of section 47(1) 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 August 16, 2011, two Liquor Inspectors attended the Licensed Premises at 9:45am and observed a patron yelling at staff. The patron had a bottle of beer.
- One of the Liquor Inspectors observed the patron exhibiting signs of intoxication both at the table and subsequently upon leaving the premises.
- A staff member told the patron he had to leave.
- The Liquor Inspector removed the beer bottle from the patron when the patron attempted to drink from the bottle.
- The Liquor Inspector completed Inspection Report #38520 and discussed it with the staff member.

Also submitted was a copy of the Notice of Hearing and Licence #2011-B-34.

Licence Holder Evidence

Mr. Tong, representing the Licence Holder, provided the following:

- He agreed with the Statement of Facts.

- He provided for his staff to attend Server Training.

Analysis

We find the charges of non-compliance are made out.

We accept the events of August 16, 2011 are as described in the submitted Statement of Facts.

We also accept Mr. Tong's admission of guilt.

Regarding Count #1, the intoxicated patron was allowed to enter and remain in the Licensed Premises. This action is in violation of section 92 of the *Act*.

Regarding Count #2, the intoxicated patron was served liquor. This action is in violation of section 93 of the *Act*.

We shall next address the submissions and considerations regarding penalty.

PENALTY

Summary of Enforcement's Submissions

- Recommendation
Recommend a penalty of a \$500 compliance penalty and a one-day suspension of the Liquor License.
- It is a
significant factor that this is a first offence.
- The
License Holder took prompt responsibility for this matter.
- Mr.
Tong and seven of his staff took the Server Training Program.

Summary of License Holder's Submissions

- This is
the Licence Holder's first offence.

- Mr.
Tong believes that the Server Training will help his staff to not make the same mistake in the future.

- A light
sentence is appropriate.

Penalty Analysis

We acknowledge the following mitigating factors:

- This is
the Licence Holder's first offence;
- Mr.
Tong has attended, together with his staff, the Server Training Program.
- Mr.
Tong has taken responsibility for the offence from the beginning.

Other factors considered include:

- The
time of day that the offence occurred;
- That
the Licensed Premise is a food primary facility.

We find Enforcement's recommended penalty is appropriate. The fact that this is the Licence Holder's first offence and that Mr. Tong accepted early responsibility, together with taking steps to remedy any knowledge deficits influenced our decision.

The penalty we have determined to be appropriate is less stringent because of the mitigating factors.

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 five hundred dollars (\$500) on or before November 22, 2011.

2.

Liquor

Licence # 2011-B-34 shall be suspended for one (1) day for the period of November 22, 2011 at 10:00am until November 23, 2011 at 2:00am. The Licence Holder shall post on all entrances to the Licensed Premises, for the duration of the suspension, a notice provided by the Board.

Dated at the City of Yellowknife, this 8th day of November 2011.

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