

Delegate of the Director of Liquor Licensing

Decision Notice

MATTER:	Contravention of the <i>Liquor Act 2019</i>
LICENSEE:	ROBJO NT Pty Ltd
VENUE:	The NT Rock Bar
LEGISLATION:	Sections 91, 141, 285 & 293 of the <i>Liquor Act 2019</i>
DECISION OF:	Delegate of the Director of Liquor Licensing
DATE OF DECISION:	2 November 2022

BACKGROUND

1. ROBJO NT Pty Ltd (previously The NT Rock Bar Pty Ltd) is the licensee for liquor licence number 80818127, trading as The NT Rock Bar, situated at 78 Todd Street, Alice Springs, NT 0870.
2. On 26 August 2022, a complaint pursuant to section 160 of the *Liquor Act 2019* (the Act), was accepted against The NT Rock Bar (the Rock Bar) by the delegate of the Director of Liquor Licensing, Andrea Allen. The licensee was given 14 days to provide a response to the complaint.

Particulars of Complaint

Allegation 1 – Section 91 and 293 of the Act – Fire safety conditions & contravening licence condition

3. It is alleged that the licensee contravened section 293 of the Act by exceeding the maximum patron limit as recommended by the Northern Territory Fire Service. On 10 July 2022, CCTV footage obtained from the Rock Bar shows approximately 270 patrons exit the Rock Bar between 0140 hours and 0200 hours. The maximum permissible number of persons allowed in the inside area of the premises, as issued by the Northern Territory Fire and Rescue Service, is 90 persons.

Allegation 2, offence 1 – Section 285 of the Act – Prohibition of liquor to intoxicated person

4. It is alleged that an employee of the Rock Bar contravened section 285 of the Act by intentionally selling or otherwise supplying liquor to another person, and the other person was on or in the licensed premises and was intoxicated, and the employee was reckless in relation to those circumstances. On 10 July 2022, CCTV footage obtained from the Rock Bar depicts a male (POI) wearing a black baseball cap (turned backwards), a red jacket and black pants purchasing liquor from the bar at 0112 hours and 0129 hours. The male appears to be unbalanced on his feet and his co-ordination noticeably impaired. It is alleged the male was intoxicated

Allegation 2, offence 2 - Section 141 of the Act – Duty and power to exclude and remove persons

5. It is alleged that the licensee and the licensee's employee contravened section 141 of the Act by failing to remove from the licensed premises a person who was disorderly or incapable of controlling the person's behaviour. On 10 July 2022, CCTV footage obtained from the Rock Bar depicts a male (POI) wearing a black baseball cap (turned backwards), a red jacket, and black pants appearing unbalanced on his feet with his gait and co-ordination appearing significantly impaired. It is alleged the male was disorderly or incapable of controlling his behaviour and that the licensee and the licensee's employees failed to remove him.

Licensee response to Complaint

6. On 30 August 2022, Mr Jo George, licensee of the Rock Bar, submitted a response to the complaint particulars.
 - a. The licensee acknowledged the allegations and does not dispute the claims set out by Licensing NT.
 - b. Since the 15 July 2022, the licensee has voluntarily reduced trading hours and are only open on Friday and Saturday nights.
 - c. The licensee claimed that on the evening of the alleged breaches, they managed patrons exiting the premises by removing all patrons from the beer garden first. However acknowledged this created a bottleneck and that security did not mitigate this correctly.
 - d. The licensee requested Licensing NT take into consideration their "minimal breaches over a 15-year period" and to consider the loss of income already suffered because of the NT Police closure of the premises, which the licensee estimated to be between "20,000 to \$25,000".
 - e. The licensee recently attended an RSA refresher course [Licensing NT delivered licensee training] to refresh their responsibilities.

Investigation of complaint

7. On 15 July 2022 Commander Craig Laidler, NT Police, notified Philip Timney, Director of Liquor Licensing (the Director), that he had taken action pursuant to section 258 of the Act against the Rock Bar. The liquor licence for the Rock Bar was suspended for a period of 48 hours, from 11:00hrs Friday 15 July 2022 to 11:00hrs on Sunday 17 July 2022.
8. Based on details outlined in Commander Laidler's letter to the Director, Senior Compliance Officer Chris Wade and Acting Principal Compliance Officer Holly Sowerby reviewed CCTV footage of the Rock Bar from 10 July 2022.
9. CCTV footage from the premises for the 10 July 2022 depicted that at approximately 0139 hours, there were approximately 10 people, including employees, in the rear beer garden. The footage depicted that between approximately 0140 hours and 0200 hours, approximately 270 patrons were observed exiting the Rock Bar. The maximum permissible number of persons allowed in the inside area of the premises, as issued by the Northern Territory Fire and Rescue Service, is 90 persons. Therefore, the Rock Bar exceeded their internal maximum patron numbers by approximately 180 people.
10. CCTV footage from the premises for the 10 July 2022 indicated that a person of interest (POI) entered the Rock Bar at approximately 2323 hours. The POI purchases alcohol at approximately 2325, 0039, 0112, 0129, and 0136 hours.
11. Between 0110 hours and 0137 hours, the POI is observed on CCTV footage losing his balance whilst both standing and walking within the premises, and appears incapable of controlling his behaviour.

12. There is no evidence to indicate Rock Bar employees had asked the POI to leave the premises prior to 0147 hours, whereby he departed of his own accord.
13. Footage obtained from Police CBD CCTV cameras corroborated the external CCTV footage from the Rock Bar.

Compliance history of the licensee

- a. On 28 February 2019, the licensee of the Rock Bar allegedly contravened sections 102 and 121 of the *Liquor Act 1978*. The Director of Liquor Licensing upheld the breaches on 1 November 2019 and imposed a monetary penalty of \$1590.
- b. On 7 December 2019, the licensee of the Rock Bar allegedly contravened sections 141 and 285 of the *Liquor Act 2019*. The complaint was upheld on 7 July 2020 and the licensee was issued an infringement notice by the NT Liquor Commission to the amount of \$1600.
- c. On 28 August 2021 NT Police Commander Craig LAIDER, exercised his powers pursuant to section 258 of the *Liquor Act 2019*, and issued a 48 hour licence suspension to the Rock Bar between 11:30am 28 August 2021 to 11:30am 30 August 2021.
- d. On 15 July 2022 NT Police Commander Craig LAIDLER, exercised his powers pursuant to section 258 of the *Liquor Act 2019*, and issued a 48 hour licence suspension to the Rock Bar between 11:00am 15 July 2022 to 11am 17 July 2022.
- e. On 4 August 2022, the Delegate of the Director of Liquor Licensing accepted a complaint against the licensee of the Rock Bar for an incident that occurred on 14 July 2022. The complaint alleged one contravention of section 141 and one contravention of section 285 of the *Liquor Act 2019*. The Delegate of the Director of Liquor Licensing upheld the complaint on 2 November 2022 and imposed a monetary penalty of eight (8) penalty units.

Analysis of the evidence

Allegation 1

14. There is sufficient evidence to find the licensee contravened section 91 of the Act, and thereby section 293 of the Act, by exceeding the maximum patron limit as recommended by the Northern Territory Fire Service. In making this determination I have relied on the following facts:
15. The maximum permissible number of persons allowed in the inside area of the premises, as issued by the Northern Territory Fire and Rescue Service, is 90 persons.
16. CCTV footage of 10 July 2022, evidences that the alleged contravention of section 293 of the *Liquor Act 2019* took place on the licensed premises of the NT Rock Bar.
17. In their response the licensee has not disputed the allegation.

Allegation 2

Offence 1

18. There is sufficient evidence to find the licensee contravened section 285 of the Act by intentionally selling or otherwise supplying liquor to another person, and the other person was on or in the licensed premises and was intoxicated, and the employee was reckless in relation to those circumstances. In making this determination I have relied on the following facts:
19. Between 0110 hours and 0139 hours, the POI is observed on CCTV losing his balance whilst both standing and walking within the premises.

20. Based on CCTV footage, it is evident that the POI is significantly impaired and incapable of controlling their behaviour.
21. Prior to the POI purchasing liquor at 0112hrs, 0129 hours and 0136 hours, staff had adequate opportunity to observe the impaired behaviour exhibited by the POI and should have formed the opinion the POI was intoxicated and should have refused to sell/supply him any further liquor.
22. In their response the licensee has not disputed the allegation.

Offence 2

23. There is sufficient evidence to find the licensee contravened section 141 of the Act by failing to remove from the licensed premises a person who was disorderly or incapable of controlling the person's behaviour. In making this determination I have relied on the following facts:
24. Between 0112hrs & 0137hrs, the POI is observed on CCTV losing his balance whilst both standing and walking within the premises.
25. Based on CCTV footage, it is evident that the POI is significantly impaired and incapable of controlling their behaviour.
26. There is no evidence to suggest Rock Bar employees or crowd controllers had attempted to remove the POI, prior to his departure from the premises at 0147 hours.
27. In their response the licensee has not disputed the allegation.

DECISION

28. It is acknowledged that the licensee has voluntarily reduced trading hours to Friday and Saturday only. Further to this, the licensee and senior staff attended an RSA education session conducted by Licensing NT personnel shortly after the incident.
29. It also acknowledged that the licensee has suffered a significant financial loss during the 48 hour closure between 15-17 July 2022, as a result of Police exercising provisions under 258 of the Liquor Act.
30. It is also recognised that the licensee is taking this matter seriously with one of the Directors, Mr Jo George working during the busy periods to supervise all staff and patron behaviour.
31. Recent inspections conducted at the premises has shown an improvement with patron management and RSA practices with no compliance issues at time of inspections.
32. Based on the available information provided to me, I have determined the following:
33. In respect to allegation 1, that being a breach of section 91 and thereby section 293 of the *Liquor Act 2019*, I have determined to issue an infringement notice of five (5) penalty units, pursuant to section 163(1)(d) of the *Liquor Act 2019*.
34. In respect to allegation 2, offence 1, that being a breach of section 285 of the *Liquor Act 2019*, I have determined to issue an infringement notice of five (5) penalty units, pursuant to section 163 (1)(d) of the *Liquor Act 2019*.
35. In respect to allegation 2, offence 2, that being a breach of section 141 of the *Liquor Act 2019*, I have determined to issue an infringement notice of three (3) penalty units, pursuant to section 163 (1)(d) of the *Liquor Act 2019*.

REVIEW OF DECISION

36. Section 27(1) of the *Liquor Act 2019* provides that an affected person for a delegate decision may apply to the Director for a review of the decision.
37. Section 27(2) of the *Liquor Act 2019* sets out the procedures for applying for a review of a delegate decision. Such application must be made within 28 days after written notice of the delegate decision is given to the affected person unless the Director extends the time allowed for making an application.
38. The affected person in this matter is the licensee of The NT Rock Bar.



Bernard Kulda
Delegate of the Director of Liquor Licensing
Date: 14 November 2022