

Delegate of the Director of Liquor Licensing

Decision Notice

MATTER:	Contravention of the <i>Liquor Act 2019</i>
LICENSEE:	NT Hotels Pty Ltd
VENUE:	Winnellie Hotel
LEGISLATION:	Section 109 of the <i>Liquor Act 2019</i>
DECISION OF:	Delegate of the Director of Liquor Licensing
DATE OF DECISION:	25 September 2024

BACKGROUND

1. NT Hotels Pty Ltd is the licensee for Liquor Licence 80101056, trading as Winnellie Hotel, situated at 34 Winnellie Road, Winnellie, NT 0820.
2. The Nominee is Mr. Leigh Jennings.
3. On 28 March 2024, Licensing NT received information alleging that Winnellie Hotel had breached the *Liquor Act 20019* (the Act) by possibly serving an intoxicated person.
4. On 2 April 2024, Senior Compliance Officer Argoon, an appointed Inspector under the Act, requested the licensee provide CCTV and Till Tapes from the Winnellie Hotel for 21 March 2024.
5. On 3 April 2024, Mr Jennings contacted Licensing NT and advised that he was unable to provide the requested footage due to a storage issue and that he could only retrieve up to 10 days of stored footage. Mr Jennings also advised he had contacted an IT person to try and rectify the issue.
6. On 8 April 2024, Mr Jennings contacted Licensing NT again to advise that due to a new camera being installed, his system now didn't have the capacity to store footage for 14 days.
7. On 10 April 2024, the licensee failed to provide requested CCTV footage.
8. On 10 April 2024, a complaint was lodged with the delegate of the Director of Liquor Licensing (the delegate), against the licensee, NT Hotels Pty Ltd.
9. On 11 April 2024, the complaint was accepted by the delegate.
10. On 15 April 2024, the licensee was informed of the complaint via email and given 14 days to respond.
11. On 19 April 2024, the licensee provided a response to the complaint.

PARTICULARS OF COMPLAINT

Allegation

12. It is alleged that on 10 April 2024, the licensee contravened section 109 of the Act by failing to produce a record, namely CCTV footage of 21 March 2024, when requested by an inspector.

Licensee's response to complaint

13. On 19 April 2024, the nominee, Leigh Jennings submitted a response to the complaint. In summary, Mr Jennings made the following submissions:
- i. We received your email on 2nd April requesting camera footage & till tapes for 21st March.
 - ii. We attempted to download the requested footage on 4th April only to discover our camera memory wasn't available from 21st March
 - iii. I contacted our camera support people who advised that the memory must have reduced due to the installation of 4 new cameras which were installed to comply with the licensing camera policy.
 - iv. When installing the new cameras Acecom did not advise the memory would be reduced.
 - v. We check daily the working operation of our cameras but don't check the memory.
 - vi. However going forward we now check the memory & ensure a minimal 14 days is held
 - vii. The memory issue was quickly rectified with new hardware installed on 11 April
 - viii. I have endeavoured to always supply the information when previously requested & apologise in failing on this occasion.
14. Attached to the licensee response was an invoice dated 3 November 2022 for 2 additional cameras being installed, one at Beer Garden Entry and another at TAB entry.

Investigation of Complaint

15. On 19 April 2024, Senior Compliance Officer Argoon commenced an investigation into the complaint.
16. The evidence for the complaint was based on the following documentation:
- i. The last audit on Winnellie Hotel was conducted on 20 March 2024 and the CCTV checklist reflects all areas compliant other than having a Camera Surveillance Plan in place therefore, if there were issues with the CCTV Storage, this would have been identified at the time of the audit.
 - ii. The date of the footage requested was for one (1) day after the date of the audit referred to above.
 - iii. A decision notice of the Delegate of the Director of Liquor Licensing dated 18 December 2020, where the licensee was given a formal warning for not providing CCTV when requested.
 - iv. The decision notice of the Northern Territory Liquor Commission (the Liquor Commission) dated 25 November 2021, placing CCTV conditions on the Winnellie Hotel drive through including *'The licensee must retain all data captured by the camera surveillance system for not less than 14 days. The licensee must maintain a register of the CCTV including a daily log of the date and time check, as well as any use of the system by licensee, an employee of the licensee, inspector or police officer.'*
 - v. The response of Mr Jennings, where he faults the failure to produce CCTV footage was due to the installation of new cameras reduced the capacity of the camera storage as invoiced on 3 November 2022.

Analysis of Evidence

17. There is sufficient evidence to support that the licensee contravened section 109(1)(a) of the Act on one (1) occasion on 10 April 2024 by failing to provide CCTV footage as requested by an Inspector.

18. In making this determination, the following facts have been relied on:
19. NT Hotels Pty Ltd is the licensee for Liquor Licence 80101056, trading as Winnellie Hotel.
20. The licensee failed to provide CCTV when requested.
21. The licensee does not dispute the allegation and accepts that it failed to act in accordance with the relevant legislation.
22. The licensee has previously received a formal warning for not providing CCTV.
23. The Liquor Commission previously placed strict CCTV conditions on the licensee, including that the must retain all data captured by the camera surveillance system for not less than 14 days.
24. The invoice attached to the licensee's response identified that the additional cameras were installed in November 2022, some 17 months prior to this matter arising.
25. It is reasonable to conclude that, had the licensee maintained the CCTV system in compliance with its licence conditions, the deficiency in storage capacity would have been identified sooner and may have prevented the licensee contravening section 109 and section 293 of the Act.

Compliance history of the licensee

26. On 18 December 2020, the Delegate of the Director of Liquor Licensing determined to issue a formal warning to the licensee for failing to provide CCTV on request and sold liquor without scanning an approved form of identification on seven (7) occasions.
27. On 25 November 2021, the Liquor Commission found that Winnellie Hotel has sold liquor to individuals on six (6) occasions who did not present an approved form of identification and on six (6) occasions sold liquor without scanning an approved identification – The takeaway hours were suspended for the full day of 10 December 2021 and CCTV conditions were added to the licence. LC2021/036 refers.

DECISION

28. In respect to the allegation, that being a breach of section 109(1)(a) of the *Liquor Act 2019*, I have determined, pursuant to section 163(1)(d) of the *Liquor Act 2019*, to issue the licensee with an infringement notice of one (1) penalty unit.
29. In respect maintaining its CCTV system as required by the CCTV licence condition, I have determined, pursuant to section 163(1)(b) of the *Liquor Act 2019* to issue a formal warning for breaching section 293 of the Act.

REVIEW OF DECISION

30. 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.
31. 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.
32. The affected person in this matter is the licensee of Winnellie Hotel.



Bernard Kulda
Delegate of the Director of Liquor Licensing
25 September 2024