

Delegate of the Director of Liquor Licensing

Decision Notice

MATTER:	Contravention of the <i>Liquor Act 2019</i>
LICENSEE:	Peppimenarti Club Association Inc.
VENUE:	Peppimenarti Club
LEGISLATION:	Section 293(1) of the <i>Liquor Act 2019</i>
DECISION OF:	Delegate of the Director of Liquor Licensing
DATE OF DECISION:	16 April 2024

BACKGROUND

1. The Peppimenarti Club Inc. is the licensee for the Peppimenarti Club, licence number 80304129. The licensed premises is situated at Lot 11 Peppimenarti NT 0822. (licensee)
2. The Nominee is Ms. Regina Wilson.
3. On Wednesday 22 November 2023, Ms Ganzer, Senior Director, Liquor Licensing and Compliance attended the Peppimenarti Club with members of the Northern Territory Liquor Commission. Whilst on the premises, Ms Ganzer observed and took a photograph of a document titled "Loans – Sat". This document was placed near the point of sale terminal (POS) and contained a list of five (5) names with a dollar amount next to each name. One of the names, "Matt", had the amount of "\$126.00" next to it, and a line through the "\$126" indicating that the amount had been paid. There were no dates indicated on the document.
4. On 29 November 2023, a complaint was accepted by the Delegate of the Director of Liquor Licensing, namely that the licensee contravened section 100(1) and section 293(1) of the *Liquor Act 2019* (Act).
5. On 29 November 2023, the Licensee was formally advised of the complaint and given the opportunity to provide a response.

PARTICULARS OF COMPLAINT

Allegation - Sections 100 and 293 of the *Liquor Act 2019*

6. It is alleged that the licensee and or an employee of the licensee contravened section 100 of the Act by selling liquor to a person and payment was not made at the time of the sale.
7. It is alleged that the licensee contravened section 293 of the Act as the duty imposed by section 100 referred to above becomes a condition of licence pursuant to section 82(1) of the Act.

Licensee's response to complaint

8. On 20 December 2023, Mr. Whear CEO of Deewin Kirim Aboriginal Corporation for and on behalf of the Peppimenarti Club Inc. provided a written response to the complaint. In summary, the response provides:
 - i. The response is provided with the full delegated authority and direction of the Club Board and Licensee/Nominee, Ms Regina Wilson.

- ii. The Board and Licensee fully acknowledge the substance and content of the complaint as outlined and supported by photographic evidence; however, they wish to make it clearly known that they were completely unaware that the referenced incidents of “Loans” were being authorised and approved by the club manager Mr Karl Lukanovic.
- iii. The Board and Licensee/Nominee would like to assure NT Licensing that this breach will never occur again as they have terminated the employment of Mr Lukanovic.
- iv. The Board and Licensee sincerely apologise for the contravention.

Investigation of Complaint

9. Licensing NT Senior Compliance Officer Holehouse commenced an investigation into the complaint noting the obligations of the Licensee pursuant to the Act.
10. The evidence for the complaint was based on the documentation referred at paragraph 3 above.
11. Section 100 of the Act, places a duty on the licensee to ensure that payment for liquor is made at the time of sale.
12. Pursuant to section 82(1) of the Act, any provision of the Act or the regulations that imposes a duty on a licensee or prohibits certain conduct by a licensee is taken to be a condition of the licence.

Analysis of Evidence

13. In making this determination, the following facts have been relied on:
 - i. The Peppimenarti Club Inc. is the licensee for Liquor Licence 80304129, trading as the Peppimenarti Club.
 - ii. The photograph of the document titled “Loans – Sat”.
 - iii. The licensee’s admission that payment was not received at the time of sale.
 - iv. The licensee’s remorse of the contravention and subsequent termination of Mr Lukanovic’s employment.

DECISION

14. In respect to allegation, that being a breach of section 293(1) of the *Liquor Act 2019*, I am satisfied that sufficient evidence exists that the licensee or the licensee's employee sold liquor to patrons and did not receive payment at the time of the sale contrary to section 100 of the Act.
15. Pursuant to section 163(1)(d) of the Act, have determined to issue an infringement notice of 5 penalty units in accordance with regulation 113 and Schedule 6 of the regulations.

REVIEW OF DECISION

16. 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.
17. 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.
18. The affected persons in this matter are the licensee of Peppimenarti Club Inc.



Bernard Kulda
Delegate of the Director of Liquor Licensing
16 April 2024