

NORTHERN TERRITORY LICENSING COMMISSION

REASONS FOR DECISION

LICENSEE: Ford Dynasty Pty Ltd

PREMISES: Lasseters Casino

LICENCE NUMBER: 80103004

PROCEEDING: Complaint Pursuant to Section 48(2):
Section 106B – Minor on Licensed Premises

HEARD BEFORE: Mrs Jane Large (Presiding Member)
Mrs Kerri Williams
Mr Paul Fitzsimons

DATE OF HEARING: 10 November 2009

APPEARANCES: Mr Tony Whitelum for the Licensee
Mr Bradley Morgan, Nominee
Mr Michael Jones, Venue Manager
Deputy Director Chris McIntyre for the Director of
Licensing
Inspector Paul Drake for the Director of Licensing

BACKGROUND

- 1) On Monday 8 June 2009, at approximately 20:15 hours a minor using false identification entered the Casino through the Decking and Beer Garden entry, proceeded through the Juicy Rump, into the Sports Lounge, through the gaming area to where she remained for a short period of time before proceeding into Lasseters Casbah and then returned back to the gaming area.
- 3) The minor was asked to produce her identification to Licensing Inspectors Susan Whyte and Paul Drake during routine inspections of the Alice Springs Region on the evening on 8 June 2009. At the time Inspector Whyte was uncertain as to whether the minor was of legal age. The minor was seated at a poker machine in the company of her boyfriend. The gaming area was declared pursuant to Section 106(1)(a) of the *Liquor Act* (the Act) an area where a minor shall not enter or remain.

- 4) The identification used would have given her an age of approximately of ten (10) years her senior. Licensing Inspectors had reasonable grounds immediately of suspecting the validity of the identification as not being that of hers.

HEARING

- 5) Evidence was provided by Inspector Paul Drake that the minor in question when viewed from six (6) metres away looked under eighteen (18). The ID produced showed a photo which was similar but not her and gave an age of twenty-six (26) year. When questioned by the Licensing Inspectors the minor gave an age of twenty-five (25) years on several occasions and only eventually, after much questioning, admitted that she was only sixteen (16) years of age.
- 6) Mr Bradley Keith Morgan, Nominee provided evidence of the procedures and policies that he had put in place to ensure that minors did not enter the licensed premises. In addition he explained his involvement in initiating the Alice Springs Alcohol Accord whereby to date sixteen (16) Licensees have agreed on various levels of banning customers, either from a specific venue, or a group of venues or involving the Police.
- 7) In his submission Mr Whitelum, for the Licensee, said that despite all the precautions taken by the Licensees what happened in this incident was a question of human error. He maintained that this particular breach was at the lower end of the scale for the following reasons.
 - There is a sophisticated security system in place;
 - Special measures had been taken relating to that particular weekend;
 - Minors ID's were being checked;
 - It was a value judgement made by the Security Officer which was in error;
 - No alcohol was purchased or consumed by the minor;
 - The minor had not been playing the gaming machines; and
 - The minor was only on the premises for six (6) minutes prior to being approached by the Licensing Inspectors.
- 8) Further, Mr. Whitelum said that there had been recent discussions and an agreement with the Deputy Director Chris McIntyre on the positioning of additional security guards to ensure all access points to the licensed premises are monitored.

- 9) Mr Whitelum maintained that if the matter had been taken before the Courts the Licensee would have had a defence under Section 124AA(c) of the Act in that *“the defendant was shown an identification for the purposes of representing that the person who had not attained the age of 18 years had attained the age of 18 years”*.
- 10) Taking into account all the above Mr Whitelum submitted that a reprimand to the Licensee would be a suitable penalty in this case.
- 11) Deputy Director Chris McIntyre submitted that whilst he did not support a reprimand in this matter, a suspended suspension would be appropriate.

CONSIDERATION OF THE ISSUES

- 12) The Commission has considered all documentation and all submissions provided at the Hearing. It has taken into account the fact that the Licensee has taken considerable trouble and effort to ensure there is strict security at the premises. Despite this an undisputed breach of the Act. has occurred.
- 13) The Commission did look at Section 124AA of the Act and whilst there is some defence, this may be negated by the wording of Section 124AA(c) *“and the defendant had no reasonable grounds for doubting the validity of the identification”* because in this case it was clear there was doubt in the validity of the identification.
- 14) When imposing a reprimand the Commission considers the Licensee’s previous record in relation to the *Liquor Act* or the Liquor Licence. In this case there have been previous breaches and therefore a reprimand is not appropriate.
- 15) It is the Commission’s decision that a suspension is appropriate for this breach, however, taking into account all the effort made by the Licensee in relation to Responsible Service of Alcohol, such suspension should be suspended. In light of the short period of time the minor was on the premises it is not proposed to suspend the licence for the whole of the premises but limit it to the Juicy Rump area of the premises which was where the minor gained admission.
- 16) The Commission was particularly concerned that the minor in question had undertaken a premeditated action in obtaining and using a false ID and when challenged was obstructive and continued to lie about her age. Currently this is not a matter within the jurisdiction of the Licensing Commission but it would be hoped it will be considered in drafting of the new *Liquor Act*.

DECISION

- 17) The Commission imposes a one (1) day suspension of the liquor licence for the area known as The Juicy Rump within the Lasseters Casino licensed area. This suspension is to be suspended for a period of twelve (12) months and if there should be any further breach of Section 106B of the Act or similar breach within this time the suspension will take effect on a Monday, this being the day when the offence occurred.

- 18) The Commission recommends that there is continual and ongoing training of security staff in the identification of minors and intoxicated persons on the premises.

Jane Large
PRESIDING MEMBER

10 November 2009