

NORTHERN TERRITORY LICENSING COMMISSION

REASONS FOR DECISION

PREMISES: **SPORTIES CLUB**

DATE OF DECISION: **27 March 2001**

DATE OF HEARING: **20 February 2001**

Complaint: **Section 48(2) of the *Liquor Act***

Complainant: **Senior Sergeant
Stephen Edgington**

Licensee: **Sporties Club Inc**

Nominee: **Robert John Gould**

Heard Before: **Mary Ridsdale**

Appearances: **Mr Robert John Gould
Mr Randal Gould
Constable Karl Robert Day
Constable Paul James Thomson**

The Complaint pursuant to Section 48 (2) of the Liquor Act was made by Stephen M Edgington, Senior Sergeant of Police and Officer in Charge Tennant Creek Police Station and dated 10 October 2000.

The Complaint arose out of the conduct of the business at licensed premises Sporties Club Incorporated at Tennant Creek on 14 September 2000. The substance of the complaint was that the Licensee sold to a member of the club, one Matthew Walker two half cartons of Victoria Bitter Beer and at that time Matthew Walker was intoxicated.

On receipt of the Complaint from the Deputy Director Industry Licensing (South) the Nominee of Sporties Club Inc Mr R J Gould replied to the complaint by letter dated 3 November 2000 admitted the facts of the incident and expressed regret in relation to the incident.

At the Meeting of the NT Licensing Commission at Alice Springs on 12/13 December 2000, the Commission decided to set a hearing date for the Complaint and the date of Tuesday 20 February 2001 was notified to Sporties Club Inc by letter dated 20 December 2000.

By fax dated 16 January 2001 the President of Sporties Club advised the Commission that the Sporties Club would not have legal representation and reiterated their regret that the incident had occurred. The Police were also notified of the hearing date.

Present at the hearing on 20 February 2001 were Nominee of the Licensee Mr Robert John Gould and the President of the club Mr Randal Gould. Police were represented by Karl Robert Day, Constable of Police at Tennant Creek and one of the investigating officers and Paul James Thomson, Police Officer also one of the investigating officers.

The Brief was admitted as Evidence and marked as Exhibit 1.

After discussion with all the parties a Statement of Agreed Facts of the incident was agreed to by the parties. Copies of the signed Statements are attached hereto. These were accepted by the Licensing Commission and the matter preceded by way of mitigation on behalf of Sporties Club Inc in relation to a breach of Section 102 of the Liquor Act, a more appropriate section than Section 48 (2) and agreed to by the parties.

Mr R J Gould submitted that the Club opened at 4pm on Thursdays and he is normally on duty at the door and only members are admitted. However on this day there had been a new Point of Sale computer installed and he was engaged in getting this set up. The bar staff were also present and Mr Gould who sold the beer to Matthew Walker did not notice any signs of

intoxication until it was brought to his attention by the Police who arrived at the Club at about 4.18pm. Mr Gould then escorted Matthew Walker from the Club and refunded the price of the beer to Police who returned the beer to him and returned the money to Mr Walker.

He did return to the club about 6pm but was not admitted. Both the Nominee Mr R J Gould and the President Mr Randal Gould advised the hearing they could ensure the Liquor Commission that all steps would be taken to avoid an incident of this nature would not occur again.

The hearing was then adjourned for one hour and a verbal decision was handed down and parties were advised Reasons for the decision would be sent to them in the near future.

The Commission took into consideration the admissions by the Licensee of the facts of the incident and thereby the hearing was shortened by at least a further day and witnesses were not called.

However this was a more serious breach of the Act than the selling of just one drink to an intoxicated person.

The Commission also noted previous breaches of the Act by the Licensee and this in fact was the third breach and admitted by the Licensee, the first having occurred on 13 January 1998 where the Club accepted responsibility for the breach under Section 121 (1) of the Liquor Act and while it was recorded no penalty was imposed.

The second breach of a similar nature occurred on 3 April 1998 and again the facts were not disputed by the then Nominee but the Commission imposed a penalty of suspension of licence for a period of 24 hours suspended for a period of 12 calendar months from 3 April 1998. No breach occurred during that period.

The present complaint is a breach of Section 102 of the Liquor Act and that breach is found to be proven for the incident of 14 September 2000. Penalty imposed was suspension of the licence for a period of two consecutive days being a Thursday and a Friday on dates to be notified to the Licensee pursuant to Section 124AAA(1)(a).

Whilst the Commission is most sympathetic with the problems that can attend a small-town community in the obtaining of competent hired staff both for security and for the bar operation, it cannot overlook the fact that a high standard of supervision, observation and organisation is required of all licensees and that these standards cannot be compromised by any outside influences or factors,. The Commission is also sympathetic with the

demands on community clubs which are so often run by volunteers and community minded persons for the benefit and good of the community and operate so often on tight budgets and yet must compete with opposing businesses run for profit by private enterprise concerns. However, the Commission demands that the same high standards be observed by all licensees regardless of the nature of the licensed premises.

In imposing this penalty the Commission acknowledged it was a serious penalty for the Licensee but must be seen also as a deterrent to other Licensees in Tennant Creek that such breaches of the Liquor Act can not be tolerated.

Mary Ridsdale
(Presiding member)

27 March 2001