

Thevenard Hotel [2015] SALC 49

LICENSING COURT OF SOUTH AUSTRALIA

THEVENARD HOTEL

JURISDICTION: S 120 Disciplinary Action

FILE NO: 6769 and 6868 of 2015

HEARING DATE: 29 October 2015

JUDGMENT OF: His Honour Judge BP Gilchrist

DELIVERED ON: 29 October 2015

REPRESENTATION:

Counsel:

Applicant: Brevet Sergeant K Phillis

Respondent: Mr D Tillett

Solicitors:

Applicant: Commissioner for Police

Respondent: Duncan Basheer Hannon

- 1 This is an application for disciplinary action taken against Rental Guru Pty Ltd, the proprietor of the Thevenard Hotel at Thevenard.
- 2 Thevenard is a small coastal town near Ceduna on the west coast of the State.
- 3 The application is based on two separate breaches.
- 4 The first concerns events of 7 December 2014. Between 5.00pm and 6.00pm that day, when the premises were open and trading, there was no responsible person on duty.
- 5 The second concerns a breach of a special condition that is attached to the licence.
- 6 Condition five (5) of this license states:

“The licensee will require a person who seeks to purchase liquor for consumption off the licensed premises to produce evidence of identity that complies with Regulation 18 of the Liquor Licensing (General) Regulations 2012 or any other identification approved by the Liquor and Gambling Commissioner.”
- 7 Between 7.00pm and 8.00pm on Thursday 25 June 2015, when the premises were open and trading, the respondent served liquor for off-site consumption to no less than three prospective patrons without requiring those patrons to produce identification.
- 8 The circumstances giving rise to the first breach are unusual.
- 9 The respondent had engaged the services of a person who had been a responsible person and gaming manager at the Ceduna Foreshore Hotel. She was known to the respondent and simply changed jobs.
- 10 Originally, approval as a responsible person was limited to the licensed premises where the person worked. In or about January 2014 this was changed and there is now industry-wide recognition for the approval.
- 11 As such the respondent had every reason to think that the person in question continued to be approved as a responsible person.
- 12 What it did not know is that following the person’s resignation from the Ceduna Foreshore Hotel, the licensee of that hotel notified the Liquor and Gambling Commissioner of the fact of the resignation and that led the Commissioner to revoke her approval.
- 13 It follows that this was a very technical breach.

- 14 The second is more serious.
- 15 It seems that at a time when the hotel was relatively busy police officers acting undercover purchased takeaway liquor and were not asked to provide any identification.
- 16 I was told that since this breach the respondent has taken steps to ensure that the breach does not re-occur. It has put on the cash register written instructions of the three-step process concerning the selling of takeaway liquor.
- 17 My dealings with the Nundroo Hotel and an application to vary the conditions of that licence graphically illustrated to me the mayhem that abuse of alcohol can cause to the Aboriginal communities on the West Coast.
- 18 I appreciate that on this occasion the respondent probably had reason to think that the people that were purchasing the liquor were not going to come to any mischief. That said when a condition such as this is in place, there should not be any discrimination based on the appearance of the person. It must be complied with at all times to all prospective purchasers. Licensees subject to condition like this need to understand that. The sanction that the Court imposes must reflect that. Such a breach, even where the licensee has a good record, will invariably attract a fine.
- 19 I therefore impose a fine of \$1,000.
- 20 Having regard to the remedial action that the respondent has taken and its genuine contrition I am prepared to suspend the payment of that fine.
- 21 If the respondent does not commit a breach of the Act or the conditions of the licence over the period of 12 months from today resulting in disciplinary action payment of the fine will be excused. If there is a breach, then payment of the fine will have to be made in addition to any other sanction that the Court might impose.