

Mailing Date: MAY 19 2008

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ADMINISTRATIVE LAW JUDGE
FOR
PENNSYLVANIA LIQUOR CONTROL BOARD

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-2458
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	Incident No. W08-358460
	:	
TOM PECKHAM	:	
PATRICIA PECKHAM	:	LID-53520
ALISON PECKHAM	:	
9909 STATION ROAD	:	
GREENFIELD TWP	:	
ERIE PA 16510	:	
	:	
ERIE COUNTY	:	
LICENSE NO. H-SS-5973	:	

BEFORE: JUDGE ROBERT F. SKWARYK

APPEARANCES:

For Bureau of Enforcement:
Michael C. Nickles, Esquire

For Licensee:
Ex Parte

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on October 26, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter Bureau) against Tom Peckham, Patricia Peckham, Alison Peckham, License Number H-SS-5973 (hereinafter Licensee).

The citation charges Licensee with violation of Section 437 of the Liquor Code [47 P.S. §4-437] and Section 5.41 of the Liquor Control Board Regulations, [40 Pa. Code, §5.41], in that on September 12, 2007, Licensee, by its servants, agents, or employees, operated the licensed establishment without a valid health permit or license, which expired on August 30, 2007.

The investigation which gave rise to the citation began on July 30, 2007 and was completed on September 12, 2007. The notice of violation letter was mailed to Licensee on September 26, 2007.

An evidentiary hearing was held on this matter on April 10, 2008, in Erie, Pennsylvania.

TOM PECKHAM
PATRICIA PECKHAM
ALISON PECKHAM
Citation No. 07-2458

Upon review of the transcript of the hearing and the Pre-Hearing Memorandum, we make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

1. Licensee is located in Erie County, Pennsylvania and holds Hotel Liquor License Number H-SS-5973. (N.T. 4)
2. On August 30, 2007, Licensee's health permit expired and was not renewed for non-compliance issues. (N.T. 13)
3. An enforcement officer was notified by the Department of Environmental Protection that Licensee's health license would not be renewed. (N.T. 7)
4. On Wednesday, September 12, 2007, at 12:55 p.m., an enforcement officer entered the licensed premises and purchased a six pack of Mike's Hard Lemonade for \$9.00. (N.T. 8)
5. The officer conducted a routine inspection and found that the health license posted in the premises had an expiration date of August 31, 2007, and Licensee was unable to produce a current health license. (N.T. 9-10)
6. The officer confirmed with the Erie County Health Department that Licensee did not have a valid health license on Wednesday, September 12, 2007. (N. T. 10)
7. On September 13, 2007, the Erie County Health Department issued Licensee a current health license. (N. T. 12)

CONCLUSION OF LAW:

Sustained as charged.

DISCUSSION:

At the hearing held on the matter, the enforcement officer and a representative for the Erie County Department of Health appeared and testified. Licensee did not appear although duly notified of the time and place.

Title 40, Section 437 of the Liquor Code and Section 5.41 of the Liquor Control Board Regulations require that a Licensee have a valid health permit in order to sell or furnish alcoholic beverages.

I find the testimony of the Bureau's witnesses to be credible. As such, the citation is sustained as charged.

TOM PECKHAM
PATRICIA PECKHAM
ALISON PECKHAM
Citation No. 07-2458

PRIOR RECORD:

Licensee has been licensed since October 6, 2004, and has no prior violations.

PENALTY:

Section 471 of the Liquor Code [47 P.S. §4-471] prescribes a penalty of license suspension or revocation or a fine of not less than \$50.00 or more than \$1,000.00 or both for violations of the type found in this case.

After due consideration of the circumstances giving rise to the citation and Licensee's status as a first time offender, a fine of \$150.00 will be imposed as the penalty in this case.

ORDER:

THEREFORE, it is hereby ordered that Licensee, Tom Peckham, Patricia Peckham, Alison Peckham, License Number H-SS-5973 (hereinafter Licensee), pay a fine of \$150.00 within 20 days of the mailing date of this Order. In the event the aforementioned fine is not paid within 20 days from the mailing date of this Order, Licensee's license shall be suspended or revoked.

JURISDICTION IS RETAINED UNTIL CASE IS CLOSED.

Dated this 15th day of May, 2008.

Robert F. Skwaryk, J.

ab

MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER TO THE OFFICE OF ADMINISTRATIVE LAW JUDGE AND REQUIRE A \$25.00 FILING FEE. A WRITTEN REQUEST FOR RECONSIDERATION MUST BE SUBMITTED WITH THE FILING FEE.

TOM PECKHAM
PATRICIA PECKHAM
ALISON PECKHAM
Citation No. 07-2458

Detach Here and Return Stub with Payment

The fine must be paid by Treasurer's Check, Cashier's Check, Certified Check or Money Order. **Personal checks, which include business-use personal checks, are not acceptable.** Please make your guaranteed check payable to the Commonwealth of Pennsylvania and mail to:

PLCB-Office of Administrative Law Judge
Brandywine Plaza
2221 Paxton Church Road
Harrisburg PA 17110-9661

Citation No. 07-2458
TOM PECKHAM
PATRICIA PECKHAM
ALISON PECKHAM