

Mailing Date: JAN 05 2015

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	IN RE Citation No.: 14-0103
LIQUOR CONTROL ENFORCEMENT	:	
	:	BLCE Incident No.: W04-469777
v.	:	
	:	PLCB LID No.: 6231
	:	
BONNIE LOUISE MUSILEK	:	PLCB License No.: H-AP-1192
HOTEL PUHALA	:	
1115-17 BRADDOCK AVE.	:	
BRADDOCK, PA 15104-1720	:	
	:	
ALLEGHENY COUNTY	:	
	:	
	:	

**BEFORE:** JUDGE RICHARD O'NEILL EARLEY

APPEARANCES:

**BLCE COUNSEL:** EMILY GUSTAVE, ESQUIRE  
**LICENSEE COUNSEL:** EX PARTE

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on January 27, 2014, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter Bureau) against Bonnie Louise Musilek, t/a Hotel Puhala, License Number H-AP-1192, (hereinafter Licensee).

The citation contains three counts.

Count one of the citation charges Licensee with violation of the Liquor Code at 47 P.S. §1-102, alleging that during the period May 1 through November 19, 2013, Licensee's licensed premises was not a bona fide hotel where the public may, for a consideration, obtain meals in that there was an insufficient supply of food and insufficient seating accommodations at tables in the public dining room.

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Count two of the citation charges Licensee with violation of the Liquor Code at 47 P.S. §4-471 and the Clean Indoor Air Act (CIAA) at 35 P.S. §637.6(a)(1), alleging that on November 19, 2013, Licensee, by its servants, agents or employees, failed to post signage as required by the Clean Indoor Air Act.

Count three of the citation charges Licensee with violation of the Liquor Code at 47 P.S. §4-437 and the Liquor Control Board Regulations at 40 Pa. Code §5.41, alleging that during the periods October 1 through 5, 7 through 12, 14 through 19, 21 through 26, 28 through 31, and November 1, 2, 8, 11 through 15, 18, 19, 2013, Licensee, by its servants, agents or employees, operated its licensed establishment without a valid health permit or license, which expired on September 30, 2013.

An evidentiary hearing was held on this matter on Wednesday, October 29, 2014, at Two Parkway Center, Suite G-8, in Pittsburgh, Pennsylvania. The Bureau was represented by Emily Gustave, Esquire.

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

FINDINGS OF FACT:

1. Licensee was present but deemed incompetent to testify in this proceeding based on a pre-hearing voir dire conducted because parties had previously alerted the court of Licensee's sole owner's memory issues. Licensee was accompanied by an adult child, Robyn Musilek. Robyn Musilek is not an owner or Officer of the Licensee and did not possess a power of attorney from Licensee. (N.T. pp. 5-6)
2. The Allegheny County Health Department notified the Bureau that Licensee was operating without a valid health permit, which expired on September 30, 2013, and was not renewed. (N.T. pp. 8, 10)
3. The investigation which gave rise to the citation began on November 11, 2013, and was completed on December 23, 2013. The notice of violation letter was mailed to Licensee on January 8, 2014. (N.T. pp. 7-8)
4. On November 19, 2013, at 6:00 p.m., a Liquor Enforcement Officer entered Licensee's premises and observed Licensee, Bonnie Louise Musilek, serving one patron. The Officer purchased a 12-oz. bottle of Miller Lite beer from Licensee. After receiving the beer, the Officer informed Licensee that he was there to conduct a routine inspection. The posted health permit had an expiration date of September 30, 2013. Ms. Musilek said she was not aware the permit had expired. (N.T. pp. 9-10)
5. The Officer reviewed the sales records indicating the premises had been open and serving alcoholic beverages on October 1 through 5, 7 through 12, 14 through 19,

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21 through 26, 28 through 31, November 1, 2, 8, 11 through 15, 18 and 19, 2013.  
(N.T. pp. 10-11)

6. The Officer asked to see the kitchen. The kitchen door was padlocked, and Ms. Musilek unlocked it. (N.T. p. 11) Half of the kitchen had caved in, and the kitchen ceiling had caved in also. Ms. Musilek said the kitchen was last used on April 30, 2013. The Officer observed that only 20 chairs were on the premises, and no food was available for patrons. (N.T. pp. 12-13)
7. The Officer noted Licensee did not have any CIAA signage posted in the premises. (N.T. p. 12)
8. The Allegheny County Health Department sent the Bureau an attestation certifying that Licensee's health permit expired on September 30, 2013, and Licensee did not have a valid health permit from October 1, 2013 through December 5, 2013. (N.T. p. 11)

CONCLUSIONS OF LAW:

Counts one, two and three: Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since December 3, 1986, and has five prior violations since July 1, 1987, the date of establishment of the Office of Administrative Law Judge, to wit:

IN RE:

Citation No. 89-1050. Fine \$500.00.

1. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries on a licensed premises (poker machines).

Citation No. 91-1484. Fine \$850.00.

1. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries on a licensed premises (poker machines).
2. Not a bona fide restaurant in that bedrooms and food were insufficient.

Citation No. 92-1306. 1 day suspension.

1. Fortified, adulterated and/or contaminated liquor.

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Citation No. 94-2694. Fine \$300.00 and 1 day suspension.

1. Not a bona fide restaurant in that there are insufficient bedrooms available for the use of guests and there is an insufficient supply of food.

Citation No. 98-2043. Fine \$500.00.

1. Possessed or operated gambling devices or permitted gambling on the licensed premises (machine).

PENALTY:

For violations of the type found in this case, the Liquor Code permits any of the following penalties: (1) a license revocation, (2) a fine in the range of \$50.00 to \$1,000.00 for each count, (3) a license suspension, or (4) any combination of a fine and suspension. (47 P.S. §4-471) In mitigation, some consideration shall be given to the fact that Licensee has admitted to the violations as charged in this citation, and has waived the right to a hearing and appeal. Accordingly, I impose a penalty of \$100.00 for count one, \$150.00 for count two, and \$100.00 for count three.

ORDER:

THEREFORE, it is hereby ordered that Bonnie Louise Musilek, t/a Hotel Puhala, License Number H-AP-1192, pay a fine of \$350.00 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.

Dated this 17<sup>TH</sup> day of December, 2014.



Richard O'Neill Earley, J.

kes

**NOTE: MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER IN 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.**

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**IF YOU WISH TO APPEAL THE DECISION OF THE ADMINISTRATIVE LAW JUDGE'S ORDER, THE APPEAL MUST BE FILED WITHIN 30 DAYS OF THE MAILING DATE OF THE ORDER. PLEASE CONTACT CHIEF COUNSEL'S OFFICE AT 717-783-9454.**

**Detach Here and Return Stub with Payment – Note Citation Number on Check**

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The fine must be paid by cashier's check, money order, or a check drawn on the account of an attorney licensed in Pennsylvania. **Personal and business checks are NOT acceptable unless bank certified.** Please make your guaranteed check payable to the Commonwealth of Pennsylvania and mail it, along with any required documentation to:

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

**Credit/debit cards may be used:** visit [www.lcb.state.pa.us](http://www.lcb.state.pa.us) scroll over LEGAL and then click on Office of ALJ for instructions.

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