

**HEARING BEFORE A PANEL
OF THE BOARD OF
ALBERTA GAMING, LIQUOR AND CANNABIS COMMISSION**

**IN THE MATTER OF the *Gaming, Liquor and Cannabis Act*
Revised Statutes of Alberta 2000, Chapter G-1, as amended
and the Regulation**

and

**2215551 Alberta Ltd.
operating as Westside Weed
914 South Railway Street SE
Medicine Hat, AB T1A 2W2**

DATE OF HEARING:	December 9, 2020
HEARING PANEL:	Ms. P. Grier, Presiding Member Mr. T. Zhang, Panel Member Ms. A. Tu Weissenberger, Panel Member
LICENSEE REPRESENTATIVE:	Mr. K. Ahlm, Owner/Operator
REGULATORY SERVICES DIVISION:	Ms. P. Nash, Hearing Officer

DECISION OF THE HEARING PANEL

The Panel finds that there was a contravention of Section 109(2) of the Gaming, Liquor and Cannabis Regulation. Pursuant to Section 94(7)(a) of the *Gaming, Liquor and Cannabis Act*, the Panel confirms the original administrative sanction of \$2,500, or a 10-day suspension of Cannabis Store Licence 781694-1, previously imposed by the Regulatory Services Division.

I. JURISDICTION AND PRELIMINARY MATTERS

[1] By letter dated August 28, 2020, the Regulatory Services Division of the Alberta Gaming, Liquor and Cannabis Commission (“AGLC”) advised 2215551 Alberta Ltd., operating as Westside Weed (“the Licensee”), that the Licensee contravened Section 109(2) of the Gaming, Liquor and Cannabis Regulation, for failure to comply with cannabis store security standards.

[2] Pursuant to Section 91(2) of the *Gaming, Liquor and Cannabis Act* (“the Act”), the Regulatory Services Division, without a hearing, imposed an administrative sanction of \$2,500 or, in the alternative, a 10-day suspension of the Licensee’s cannabis store licence.

[3] The Licensee subsequently applied for a hearing before a Panel of the Board of AGLC pursuant to Section 94(1) of the Act.

[4] The Licensee and the Panel were provided with a Hearing Record containing various documents pertaining to the alleged contravention, including an incident report dated August 27, 2020. The Licensee confirmed receipt of the Hearing Record and Notice of Hearing dated November 18, 2020. The following documents were entered into evidence:

- Exhibit #1 – Hearing Record (Tabs #1 to #21);
- Exhibit #2 – Applicant’s Documents (Tabs #1 to #5); and
- Exhibit #3 – Regulatory Services Division Additional Documents (Tabs #1 to #6).

II. ISSUE

[5] Did the Licensee contravene Section 109(2) of the Regulation and if so, should the administrative sanction of \$2,500 (or a 10-day suspension) previously imposed by the Regulatory Services Division be confirmed, replaced or cancelled?

III. EVIDENCE

Regulatory Services Division

The Regulatory Services Division called two witnesses: Inspector Riley Fowler and Inspector Tanya Woo, both of whom work out of AGLC’s Lethbridge office. The following is a summary of the evidence provided by Inspectors Fowler and Woo:

[6] On August 20, 2020, Inspectors Fowler and Woo attended Westside Weed to conduct an operating check to ensure the Licensee was in compliance with cannabis store security standards. In accordance with the Regulation, all cannabis products and cannabis accessories displayed in a cannabis retail store during hours of operation must be displayed in locked cases which are only accessible by authorized staff.

[7] There was one employee on duty at the time of the operating check. The Inspectors observed that the employee was not locking the filing cabinets behind the main sales counter, which contained cannabis products, in between helping different customers.

[8] Inspector Fowler proceeded to conduct an inspection of the display cases in the sales area of the premises and observed the following:

- Two of the display cases had a locking device with a lock attached and the key inserted. The display cases were not locked; Inspector Fowler was able to freely open the display cases. Both of the display cases contained cannabis accessories;

- One display case had the teeth, but no actual lock, for the display case; Inspector Fowler was able to freely open the display case. The display case contained cannabis accessories. The employee on duty indicated that when she started her shift the lock was missing;
- One display case did not have a locking device; Inspector Fowler was able to freely open the display case. The display case contained cannabis products and accessories. The employee on duty indicated that she previously informed the Licensee about the issue but a replacement lock had not been installed;
- Underneath a locked display case there were unlockable cupboards that contained bongs in cardboard boxes;
- On the counter beside the point of sale system there were unlocked cannabis accessories which included screen filters; and
- Underneath the point of sale system on an open, unlocked shelf, there were cannabis pipes, pipe cleaners, lighters and a vaporizer.

[9] Prior to Inspector Fowler departing the premises, he requested that the employee on duty immediately move the unlocked cannabis products to a lockable display case or into the secure cannabis storage room.

[10] On August 21, 2020, Inspectors Fowler and Woo reviewed the operating history for the Licensee and noted the following:

- On June 1, 2020, Inspector Keith Scotland conducted a maintenance inspection at the premises and observed that one display case containing cannabis accessories did not have a lock on it, and three filing cabinets containing cannabis products were unlocked. Ms. Amy Ahlm, a shareholder of the Licensee, was advised of the incident and she corrected the issue. An operational report was prepared by Inspector Scotland detailing the contravention; and
- On June 12, 2020, Inspectors Fowler and Woo conducted an operating check at the premises and observed cannabis products being stored in three unlocked filing cabinets. Cannabis products were also left unlocked on the sales counter and a display case containing cannabis accessories was unlocked. Cannabis accessories were also found unlocked beside the point of sale system on the sales counter and on the shelf below. Inspector Woo contacted the Licensee on June 16, 2020 to advise him that an Inspectors Caution was being issued for a contravention(s) of Section 109(2) of the Regulation. At that time, the Licensee indicated that he was researching new locking systems for the filing cabinets.

[11] On August 24, 2020, Inspector Woo contacted the Licensee to advise him that an incident report was being submitted for the contraventions of Section 109(2) of the Regulation noted during the recent operating check on August 20, 2020, and taking into consideration the previous verbal warning on June 1, 2020 and Inspector's Caution on June 12, 2020. The Licensee advised Inspector Woo that the employees of the premises don't lock the cabinets or fix the locks, which is an ongoing struggle.

[12] On August 24, 2020, Ms. Ahlm contacted Inspector Fowler to discuss the incident report. Inspector Fowler explained to Ms. Ahlm the importance of ensuring that cannabis products and accessories are secured at all times. Inspector Fowler advised Ms. Ahlm that the Licensee had been

given multiple opportunities to remedy the noted security issues but the issues had still not been rectified.

[13] The Licensee also owns another cannabis store in Redcliff called Weed Warehouse. Inspector Fowler conducted a maintenance inspection at Weed Warehouse in June 2020 and found unlocked cabinets with cannabis products inside. The Licensee was working at the premises at the time, and Inspector Fowler explained to the Licensee the importance of locking up all cannabis products and accessories.

[14] Inspector Fowler conducted an employee training seminar at Westside Weed on October 8, 2020. Inspector Keith Scotland requested that a training seminar be provided to the Licensee's employees, as a result of contraventions he observed during a visit to the premises in September 2020. Inspector Fowler does not believe that the Licensee ever requested an employee training seminar, even though several warnings had been provided by the Inspectors about the Licensee's failure to comply with cannabis security requirements.

[15] At the time cannabis retail stores are issued a licence, Inspectors discuss cannabis operating procedures with the licensees. Inspector Fowler discussed operating procedures with the Licensee when he opened Weed Warehouse in Redcliff on January 23, 2020. Inspector Woo also discussed operating procedures with the Licensee when he first opened Westside Weed in 2018. In discussing operating procedures, both Inspectors Fowler and Woo advised the Licensee that AGLC training seminars were available for the Licensee and his employees, upon request.

[16] Inspector Woo has spoken with the Licensee on four occasions regarding the requirement to secure cannabis products and cannabis accessories. Inspector Woo also spoke with Ms. Ahlm on one occasion about the same requirement.

Licensee

Keith Ahlm provided evidence on behalf of the Licensee. The following is a summary of Mr. Ahlm's evidence:

[17] After each AGLC inspection, the Licensee made attempts to rectify the issues identified. However, the Licensee does not have a great deal of experience managing employees and that may have played a part in the continued contraventions. The Licensee tried, on numerous occasions, to explain to his employees the importance of adhering to the security requirements. In August 2020, the Licensee made modifications to the locks on the cabinet doors to ensure the locks stay on the cabinets at all times.

[18] The Licensee spends a full week working side-by-side with new employees before they are permitted to work alone. The importance of complying with AGLC legislation and policies is stressed with all employees. The Licensee does not have a written, formalized employee training manual but he is in the process of preparing training videos.

[19] The Licensee does not feel that Inspectors Fowler and Woo made it clear that an AGLC training seminar could be requested. During a telephone conversation with Inspector Scotland a few months ago, the Licensee found out about the training seminars. On September 24 and October 1, 2020, the Licensee sent emails to Inspector Scotland requesting a training seminar for his employees. The Licensee requested the training seminar; it was not done at the request of Inspector Scotland, as stated in the incident report. The training seminar was conducted by Inspector Fowler on October 8, 2020.

[20] The Licensee has recently implemented his own form of security inspections at the premises. The inspections are randomly conducted by the Licensee and are designed to ensure employee compliance with the same items AGLC Inspectors are reviewing when they conduct inspections.

[21] Since completion of the AGLC training seminar and the implementation of the random security inspections, the Licensee has had great success and he is confident there will not be any issues with his employees failing to comply with the security standards in the future.

[22] The Licensee acknowledges that Inspector Woo attended Westside Weed on February 6, 2019 and found cannabis accessories on top of the counter while Ms. Ahlm was working (Exhibit #3, Tab #6). However, those accessories were not items for sale but were being provided at no cost to customers.

[23] The Licensee also acknowledges that Inspector Woo attended Westside Weed on March 21, 2019 and found cannabis accessories that were not secure when Ms. Ahlm was working (Exhibit #3, Tab #5). Those accessories were Bic lighters, which the Licensee mistakenly confused with lighters that are available for purchase at non-cannabis stores.

[24] The Licensee further acknowledges that Inspector Woo attended Westside Weed on September 11, 2019 and found both cannabis products and cannabis accessories unsecured while Ms. Ahlm was working (Exhibit #3, Tab #4). However, the drink products found by Inspector Woo were pop cans and did not contain any actual cannabis. As a result of this incident, the Licensee was issued a Caution for not following security standards.

[25] The Licensee confirms that Inspector Fowler conducted a maintenance inspection at Weed Warehouse on June 1, 2020 and observed unlocked filing cabinets during his inspection (Exhibit #3, Tab #2). Inspector Fowler advised the Licensee that all cabinets that house cannabis products or cannabis accessories must be locked.

IV. SUMMATION

Regulatory Services Division

[26] The Retail Cannabis Store Handbook (“the Handbook”) details the security procedures licensees are expected to follow regarding storing and displaying cannabis products and accessories, in order to ensure compliance with Section 109(2) of the Regulation. Specifically, Section 3.3.5 of the Handbook states “all cannabis or cannabis accessories displayed in a customer area must be within a secure showcase that is locked at all times and accessible only by authorized staff”. Section 3.3.7 of the

Handbook states “all cannabis accessories not displayed in a customer area must be stored in a locked storage room accessible only by authorized staff”.

[27] Operating a retail cannabis store in Alberta is a privilege and not a right. It comes with significant responsibilities including the requirement for licensees and their employees to comply with all relevant legislation and policies.

[28] The policies and legislation regarding security in a cannabis retail store were developed with public safety in mind. Cannabis products and accessories must be secured to lessen the risk of both theft and robbery. These preventative measures help to ensure the safety of both employees and patrons.

[29] The Licensee and his business partner, Ms. Ahlm, have received numerous warnings from AGLC Inspectors about the requirement to secure cannabis products and accessories; Inspectors spoke with the Licensee on March 21, 2019, September 12, 2019, June 1, 2020, June 16, 2020 and August 20, 2020. Inspectors also spoke with Ms. Ahlm on February 6, 2019, March 21, 2019 and September 11, 2019 about the same issue. In addition, the Licensee received two Inspector’s Cautions prior to the incident report being issued on August 27, 2020.

[30] Despite numerous warnings and the education provided by AGLC Inspectors, the Licensee did not take the appropriate corrective action until after the incident report was submitted. The direction of AGLC Inspectors is always to educate licensees first, prior to proceeding with enforcement action. In this case, the Inspectors went above and beyond, and provided the Licensee with a reasonable amount of time to address the security issues noted.

[31] The Regulatory Services Division respectfully submits that the Licensee contravened Section 109(2) of the Regulation and recommends that the original administrative sanction of \$2,500 or a 10-day suspension previously offered by the Regulatory Services Division be upheld by the Panel.

Licensee

[32] Two and half years ago, the Licensee entered into the retail cannabis industry without any previous retail experience. There is no instruction manual for running a cannabis store from day one of legalization. For the first two years, the Licensee and Ms. Ahlm operated the premises from 10am to 2am, seven days a week, with only one part-time employee. The Licensee has applied himself to the business with his entire being.

[33] The Licensee is learning for the first time how to run a business and more importantly, how to manage employees. The Licensee does not have a large number of employees or middle management that can be called upon to help address any issues that arise.

[34] The Licensee takes every issue very seriously and personally. The Licensee has gone out of the way on numerous occasions to ask AGLC Inspectors for approval or confirmation about many issues or areas of uncertainty. The Licensee would argue that the premises has a history of over-cautious compliance rather than non-compliance.

[35] The Licensee admits there have been some faults and mistakes in the business' history. The Licensee hopes the Panel will agree that some small mistakes are typical of any new business. The Licensee has never operated the premises with the intention of skirting or sidestepping the rules.

[36] Following each inspection, AGLC Inspectors verbally notified the Licensee of the issues that had been identified. In hindsight, the Licensee believes he should have requested written reports from the Inspectors, which may have given more clear direction on what he need to corrected.

[37] The Licensee has now created a standard operating procedures document, describing the security requirements for cannabis products and accessories in accordance with AGLC standards. Each employee has signed a copy of the document, confirming that they understand the requirements. The Licensee has also begun to conduct random compliance inspections of the premises.

[38] The Licensee was not made aware of the availability of AGLC training seminars. Once he became aware, he contacted AGLC to book a session for his employees. Following completion of the training seminar, and since the implementation of the random compliance inspections, the Licensee has not had any compliance issues. This is a big victory and the Licensee is confident there will not be any issues in the future.

[39] With respect to the proposed sanction of \$2,500, the Licensee respectfully requests that the Panel consider the struggles the Licensee faced in opening a new business, without any experience, and take into account the compliance successes the Licensee has had to date.

VI. ANALYSIS

[40] Inspectors Fowler and Woo advised the Panel that they conducted a maintenance inspection at the premises on August 20, 2020 and found a number of unlocked cases containing cannabis products and/or cannabis accessories. In addition, the Inspectors also noted unsecured cannabis accessories on or under the the counter by the point of sales system.

[41] The Licensee did not challenge the evidence provided by Inspectors Fowler and Woo, except to say that the Licensee was having difficulty getting his employees to understand the importance of complying with the retail cannabis store security requirements.

[42] The Panel must consider Section 121 of the *Act* which reads:

If an employee or an agent of a licensee contravenes a provision of this Act, the licensee is deemed also to have contravened the provision unless the licensee establishes on a balance of probabilities that the licensee took all reasonable steps to prevent the employee or agent from contravening the provision.

[43] The evidence provided by the Licensee is that prior to the contravention in question and the incident report being issued, the Licensee conducted side-by-side training sessions with new employees for one week, prior to allowing them to work on their own. The Licensee advised the Panel that he does not have a written, formalized employee training manual. The Panel believes that the training the

Licensee previously provided to his employees was insufficient, given that the Licensee's employees continued to disregard the requirement to ensure that cannabis products and accessories are secured at all times.

[44] The Panel can appreciate the challenges of starting a new business, including the responsibility to manage and train employees. However, the Licensee has been in operation for over two years and Inspectors Fowler and Woo provided evidence that confirmed that the Regulatory Services Division spoke to the Licensee and/or Ms. Ahlm about the security issue(s) on February 6, 2019, March 21, 2019, September 11, 2019, June 1, 2020, June 16, 2020 and August 20, 2020. The Licensee received two Inspector's Cautions regarding the requirement to ensure that cannabis products and accessories are secured at all times during store operating hours.

[45] Inspectors Fowler and Woo also advised the Panel that they discussed operating procedures with the Licensee at the time he opened the premises in 2018 and again when he opened Weed Warehouse in Redcliff in 2020. Accordingly, the Panel is of the opinion that the Licensee should be well aware of the security requirements and further, that he was provided with ample opportunity to make the necessary modifications to the cabinets and to work with his employees to ensure compliance.

[46] The Panel commends the Licensee for the steps he has taken since the incident in question to prevent future contraventions, including modifying the locks on the cabinet doors, implementing the Licensee's own compliance inspections and holding an AGLC employee training seminar. However, these measures were not implemented until after the Licensee received the incident report with respect to this convention.

[47] Therefore, for the reasons noted above, the Panel finds that the Licensee did not take all reasonable steps to prevent the contravention from occurring.

VII. FINDING

[48] The Panel finds that the Licensee contravened Section 109(2) of the Regulation.

[49] Pursuant to Section 94(7)(a) of the *Act*, the Panel confirms the original administrative sanction imposed by the Regulatory Services Division, as follows:

Penalty: A \$2,500 fine OR a 10-day suspension of Cannabis Store Licence 781694-1. The fine is to be paid on or before Monday, March 15, 2021, or the suspension served commencing Tuesday, March 16, 2021 and continuing until the close of business on Thursday, March 25, 2021.

Signed at St. Albert, this 13th day of January, 2021.



Patti Grier, Presiding Member, Hearing Panel