

IN THE MATTER

of the Sale and Supply of Alcohol
Act 2012 Act

AND

IN THE MATTER

of an application **RAYHAAN
JACOBS** pursuant to s.219 of the
Act for a Manager's Certificate

BEFORE THE QUEENSTOWN LAKES DISTRICT LICENSING COMMITTEE

Chairman: Mr E W Unwin
Members: Ms M W Rose
Mr L Cocks

HEARING at Queenstown on 19th October 2015

APPEARANCES

Ms J Mitchell – Queenstown Lakes District Licensing Inspector – to assist
Sergeant L K Stevens – N Z Police – in opposition
No appearance by or on behalf of the applicant

ORAL DECISION OF THE COMMITTEE

- [1] This is an application by Rayhaan Jacobs for a manager's certificate.
- [2] Section 222 of the Act sets out the criteria which we are required to consider. These are as follows;
- (a) *The applicant's suitability to be a manager:*
 - (b) *Any convictions recorded against the applicant:*
 - (c) *Any experience, in particular recent experience, that the applicant has had in controlling any premises which a licence was in force:*
 - (d) *Any relevant training, in particular recent training, that the applicant has undertaken and evidence the applicant holds the prescribed qualification required under section 218:*
 - (e) *Any matters dealt with in the reports under section 220.*
- [3] Before the committee is an application by Rayhann Jacobs for a manager's certificate. Mr Jacobs is 21 years old age having been born on the 26th November 1993. He has previously held a manager certificate which was granted in Auckland on 6th November 2013. That certificate expired in November 2014.

[4] Mr Jacobs filed an application for renewal with the Queenstown District Licensing Committee on the 23rd April 2015. This was not accepted because the certificate had expired. Accordingly he made a further application for a certificate which is the matter now in hand. This was received by the District Licensing Committee on 11th June 2015.

[5] The application was supported by a favourable reference from the Brazz Steak House and Bar dated 21st April 2015. The application was in standard form but under the question 'criminal convictions' there was nothing.

[6] One of the reasons why there was no disclosure was that the application form was dated on the 22nd May 2015, although not filed until a little later. The application is not without stumbling blocks The Police reported that on the 25th May 2015 Mr Jacobs had been convicted in the Queenstown District Court for driving with excessive breath alcohol level being 771mg of alcohol in per litre of breath a little under twice the allowable limit. The offending had taken place on the 23rd May 2015.

[7] The application was set down for a public hearing given the recent conviction involving abuse of alcohol, and taking into account the object of the act set out in section 4 of the Act. Mr Jacobs was given 18 days' notice of the hearing. He was written to on the 1st October 2015 and again on the 16th October by the Committee's staff. He wrote back finally on the 18th of October and said:

"My apologies for not getting back to you sooner, I have tried calling and coming in to the council to speak to you and to let you that I will not be able to make the hearing on Monday as I have to be at work and won't be done until 11:30am, I tried changing my shifts so I could attend the hearing, but I was not successful. My humble apologies for this. I will come in to the council as soon as I am done working though."

[8] Mr Jacobs failed to appear at the appointed time of 10.15am. The Inspector who has given evidence was concerned because Mr Jacobs had such a fulsome reference and it therefore seemed strange that he was unable to change his shift and apparently unable to be supported by his manager. She therefore rang his place of work. It appears from her conversation with the previous employer that Mr Jacobs is no longer employed at the business and that his employment ceased about a month ago.

[9] The Committee is faced with a number of factors pointing to unsuitability as follows:

1. His absence from the hearing without an apparently reasonable excuse;
2. the fact that prior to the application being filed he had been convicted of an offence involving alcohol abuse;
3. his failure to disclose the offending:

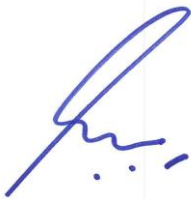
4. the fact that he is no longer supported by his current employer:
5. we are unaware of whether he is employed in the industry, and
6. he failed to renew his certificate last November.

[10] While it is true that Mr Jacobs is not present to possibly explain any of these issues, he has clearly been responsible for his own down fall. The leading case in respect of guidelines of how the Committee is to treat recent convictions is G L Osbourne LLA 2238/95. That decision states that a single event such as drink driving will result in a two year stand down period. In other words this gives the applicant opportunities to establish that this fall from grace is unlikely to be repeated and the lesson has been learnt.

[11] This Committee has in the past adjourned cases involving similar offending for up to twelve months but it never exceeds that period as a matter of principle. Whether Mr Jacobs was present or not he fails to qualify for a manager's certificate given the criteria set out in section.222 of the Act as set out above. Even if Mr Jacobs was present to speak for himself it is unlikely he would be able to persuade us to depart from a guideline that has been in existence for many years.

[12] A certificated manager of licence premises has a considerable responsibility on his or her shoulders. Pursuant to s.214 of the Act a manager is responsible for compliance with and enforcement of the provisions of the Act as well as the conditions of the licence. In those circumstances the Committee has no alternative other than refuse the application.

DATED at Queenstown this 28th day of October 2015



Mr E W Unwin
Chairman