



Decision Number: 048/2023/HCDLC/297

IN THE MATTER of section 219 of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER of an application by Levi John Walton of 616A Marine Drive, Days Bay, Eastbourne for a new Manager's Certificate

**BEFORE THE LOWER HUTT DISTRICT LICENSING COMMITTEE**

Chair: Cr Simon Edwards

**HEARING** Held on the papers

**DECISION OF THE DISTRICT LICENSING COMMITTEE**

**Decision**

[1] The Lower Hutt District Licensing Committee (the Committee) acting pursuant to the Sale and Supply of Alcohol Act 2012 **DECLINES** the application for a New Manager's Certificate for Levi John Walton of 616A Marine Drive, Days Bay, Eastbourne.

**Introduction**

- [2] Levi John Walton 'the applicant' of 616A Marine Drive, Days Bay, Eastbourne applied for a new Manager's Certificate in accordance with section 219 of the Sale and Supply of Alcohol Act 2012. The application was lodged on 7 February 2023.
- [3] The applicant was intending to be a Manager at Flint Social located at 205 Jackson Street, Petone, Lower Hutt. The applicant had been employed at Flint Social from January 2023 to February 2023. It is unknown if the applicant was working in the alcohol industry at the time of the application.
- [4] The applicant supplied a copy of his Licence Controller Qualification (LQC) Certificate but not a letter confirming his current employment or a character reference.
- [5] An interview was arranged with the applicant on 14 February 2023. The applicant was not well and was unable to attend. A second interview time was to be arranged.
- [6] On 20 February 2023, the applicant's employer advised by email that the applicant had not returned to work or been in communication to state when he may return.

- [7] Two more attempts were made via email to contact the applicant on 22 February 2023 and 29 March 2023 to arrange an interview. No telephone number was provided with the application. A final letter was sent to the applicant on 24 May 2023 and no response has been received.
- [8] A final email was sent to the applicant on 25 July 2023 asking if he wished to pursue the application. No response has been received.

### **The Applicant**

#### *Suitability*

- [9] The applicant failed to appear for an interview to assess his understanding of the Sale and Supply of Alcohol Act 2012, host responsibility and the licence conditions for the premises he intended to use the Manager's Certificate.
- [10] The applicant has also failed to provide a letter from a current employer to confirm his employment in the industry. Section 222(e) of the Sale and Supply of Alcohol Act requires a manager to be in the hospitality industry to qualify for Manager's Certificate.
- [11] Multiple attempts to contact the applicant have been unsuccessful.

### **Reporting Agencies**

- [12] A copy of the application was sent to the New Zealand Police on 8 February 2023. The Police responded stating that they had no matters of opposition to the granting of a Manager's Certificate for this applicant.

#### *District Licensing Inspector*

- [13] The Committee received a detailed written report from the Environmental Health Officer (the reporting Licensing Inspector), which provided a good background to the application.
- [14] It is the view of the Licensing Inspector that the applicant is not a suitable person to hold a Manager's Certificate.

#### *Committee's Overall Finding of the Licensing Inspector's Evidence:*

- [15] The Committee agrees with the recommendation of the Licensing Inspector.
- [16] The applicant has not made himself available for an interview to discuss his suitability and understanding of the Sale and Supply of Alcohol Act 2012.
- [17] There has been no communication received from the applicant despite several attempts by officers to contact him.

### **Legislation**

#### *Sale and Supply of Alcohol Act 2012*

##### *Section 3*

- [18] The general purpose of the Act is for the benefit of the community as a whole and is to put in place a new system of control over the sale and supply of alcohol.<sup>1</sup>

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<sup>1</sup> Sale and Supply of Alcohol Act 2012 (the Act), s 3

*Section 4*

[19] The object of the Act is to ensure that alcohol is sold and supplied safely and responsibly and that any harm caused by the excessive or inappropriate consumption of alcohol is minimised.

*Section 219 Applications for Manager's Certificates*

- (1) *Every application for a manager's certificate must –*
- (a) be made in the name of the person who will hold the certificate if the application is granted; and*
  - (b) be made in the prescribed form and manner; and*
  - (c) contain the prescribed particulars; and*
  - (d) be accompanied by the prescribed fee.*
- (2) *An application must be filed with the following licensing committee:*
- (a) where the applicant intends to be the manager of any particular licensed premises, the licensing committee with which the application for the licence was filed; or*
  - (b) in any other case, the licensing committee for the district in which the applicant is residing.*

*Section 222 Criteria for Manager's Certificates*

*In considering an application for a manager's certificate, the licensing committee or licensing authority, as the case may be, must consider the following matters:*

- (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 for which a licence was in force:*
- (d) any relevant training, in particular recent training, that the applicant has undertaken and evidence that the applicant holds the prescribed qualification required under section 218.*
- (e) any matters dealt with in any report made under section 220.*

### Case Law

I refer to Gao [2008] NZLLA 973

*Mr Gao appeared before us today and explained that he is not currently employed but may look for work in the industry in the future. It has been explained to Mr Gao that General Managers' Certificates are not issued in a vacuum and that the holder of a General Manager's Certificate is expected to have employment in the industry and the support of an employer.*

*We are unable to be satisfied at this time as to the criteria which we must consider. The application will accordingly be declined at this time. However this need not be the end of the matter. If Mr Gao is able to obtain employment within the industry he is free to make further application for a General Manager's Certificate.*

I further refer to Re Jessica Vold et al [2014] NZARLA 215-217 and Re Sam William Bailey at al [2014] NZARLA 2018-220

*When the matters were called there was no appearance by or on behalf of any of the applicants. We take the inference, therefore, that the applicants have lost interest in pursuing their applications.*

*We are unable to be satisfied as to the matters to which we must have regard in s.121(1) of the Act and, as a matter of law, the applications must be refused.*

### District Licensing Committee Discussion, Findings, Decision and Reasons

#### *Section 222 Criteria and Suitability of the Applicant*

[20] The Committee finds that the suitability criteria under the Act has not been met.

[21] The applicant has not made himself available for an interview to discuss his suitability and understanding of the Sale and Supply of Alcohol Act 2012.

[22] There has been no communication from the applicant despite repeated attempts to contact him.

### Conclusion

[23] Having considered the application and relevant criteria under ss219 and 222 of the Act, and the purpose and object of the Act, the Committee is satisfied that the considerations fall against the granting of new Manager's Certificate to Levi John Walton of 616A Marine Drive, Days Bay, Eastbourne. This refusal to approve the new Manager's Certificate is effective from the date of this decision, namely 15 August 2023.

Dated at Lower Hutt this 16th day of August 2023

Signed

  
Cr Simon Edwards  
Chair, Lower Hutt District Licensing Committee