

Notice of Decision



Decision No. 57/CERT/1743/2022

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application by Ayush Lakhera pursuant to s.219 of the Act for a Manager's Certificate

BEFORE THE Hurunui District Licensing Committee

Commissioner: Mr M Ward

DECISION (ON THE PAPERS)

This is an application by Ayush Lakhera for a Manager's Certificate.

The application initially submitted on 11 August 2022 was not complete and did not include information about:

1. Experience at working at a licensed premises.
2. Evidence of employment or intension of employment as a duty manager.
3. Recent and relevant training.
4. Evidence of a prescribed qualification or licence controller qualification.

The following information was finally received on 5 October 2022 to complete his application, and enable it to be forwarded to Licensing Inspector and Police for inquiries and reporting:

- Confirmation from The Learning Place that Mr Lakhera completed the Licence Controller Qualification Course on 21 July 2022 and obtained the appropriate NZQA Unit Standards.
- A NZ Certificate of Citizenship.
- A Personal Statement from Mr Lakhera which included his work experience.
- An email supporting his application from a family member who works as a duty manager at the Kafal Indian Cuisine restaurant in Amberley.

During the Licensing Inspector's inquiries, Mr Lakhera advised that he is currently unemployed and looking for a role in administration. He does not intend to work full time in hospitality. Mr Lakhera stated that he worked some shifts at his family's restaurant, Kafal Indian Cuisine.

Mr Lakhera has not demonstrated good knowledge of the Sale and Supply of Alcohol 2012. He was unable to explain the object of the Act and was not aware of the intoxication assessment criteria (SCAB – speech, coordination, appearance, and behaviour). These are fundamental skills required by a holder of a manager’s certificate.

The New Zealand Police submitted a report on 1 November 2022, stating:

“Police do not oppose the application but suggest the application is held until the applicant has paid experienced six months work before his certificate is issued.”

The Licensing Inspector submitted a report on 6 December 2022 in opposition to the application on the grounds of s. 222(a), (c), and (d) of the Act. The Licensing Inspector stated:

- (i) The applicant is not considered suitable to be issued a manager’s certificate at this time; and*
- (ii) The applicant lacks experience in controlling any premises for which a licence was in force; and*
- (iii) The applicant lacks adequate training, in particular training and mentoring on-the-job by experienced duty managers.*

In her report, the Licensing Inspector concluded:

“The Inspector opposes the application until the applicant has demonstrated the following:

- Six months experience in paid employment at a licensed premises, and*
- Evidence of the paid employment to be provided, and*
- His skills and knowledge to be assessed as adequate by the Licensing Inspector following the six-month’s experience selling and supplying alcohol.”*

Relevant case law:

It has long been the status quo that a manager must be in the hospitality industry to qualify for a manager’s certificate. This was confirmed in the decision of the Authority, NZLLA PH 973/2008 at paragraph [3] onward.

At paragraph [3] of that Decision, the Authority stated:

“General Manager’s 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.”

The above decision was expanded on, and reference made to the original decision quoted in *McLean NZLLA PH 318/2009* at paragraph [1] onwards.

This was again emphasised in *Kerslake [2015] NZARLA 317*, which stated:

“It is clear from this decision that the Authority expects that applicants for a manager’s certificate will be, at the very least, currently employed in the industry and generally be able to indicate the position which they will take up if the certificate is granted.”

Legislation:

The matters we must consider is set out in s. 222 of the Act:

222 Criteria for manager's certificate

- (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.*

Decision:

We are unable to be satisfied at this time as to the criteria which we must consider under s. 222 of the Act. We are not confident that Mr Lakhera has sufficient knowledge of the Act, and he does not have recent and relevant experience and training in the industry.

While we could consider convening at a hearing, we recognise that Mr Lakhera is actively seeking employment which may be within the industry. Accordingly, the application will be placed **on-hold** for a period of up to six-months, **being until 16 June 2023**, to allow the applicant to gain paid employment in the industry as a duty manager, and to increase knowledge of the Act through further experience and training/mentoring.

The applicant must provide evidence of paid employment in the industry before this date (i.e., a letter of support from your employer outlining your duties, payslips etc.). Once this evidence is received, the application will be reassessed by the Licensing Inspector, then a further and final decision will be issued.

Dated at Amberley this 16th day of December 2022



Secretary
Hurunui District Licensing Committee

