

Notice of Decision



Decision No. 57/CERT/1629/2020

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER

of an application by Vicky Linda
Sheard pursuant to s.219 of the Act
for a Manager's Certificate

BEFORE THE Hurunui District Licensing Committee

Chairperson: Mayor M Black
Members: Councillor M Ward
Mr W Dalley

HEARING at Amberley on Monday 31 August 2020

APPEARANCES

For the applicant: Ms Vicky Sheard
Mr Howard Hobson – witness for the applicant.
Licensing Inspector: Ms Dianne Morrison – initially opposed.
NZ Police: Constable Genevieve Craddock – to assist.

DECISION OF THE COMMITTEE

Introduction

1. Before the Hurunui District Licensing Committee is an application by Vicky Linda Sheard for a Manager's Certificate, pursuant to s. 219 of the Act. The application was lodged on 17 June 2020.
2. The applicant successfully gained the Licence Controller Qualification (LCQ) on 23 February 2020.
3. The applicant has a long history in the hospitality industry. In terms of recent experience, the applicant has worked casually at the Star and Garter Hotel approximately once or twice a week prior to the COVID-19 lockdown period and was helping behind the bar at the Belfast Tavern approximately once-a-week on a voluntary basis.
4. Due to COVID-19 lockdown and an injury, the applicant has only worked a few nights at the hotel since the end of the lockdown period. The applicant has not been

successful in obtaining full-time work in the industry as licensed premises are looking for certificate holding managers.

5. The applicant has not met the requirement for *recent and relevant* experience, which is widely considered to be a minimum of 6-months experience in the industry.
6. The District Licensing Committee convened a public hearing in accordance with s. 202(3) of the Act.

Applicant

7. The applicant gave evidence at the hearing. She spoke of her work experience and her long affiliation with the hospitality industry in both New Zealand and Australia. The applicant explained that she is aware of the changes to the legislation and had upskilled her knowledge and training by completing the LCQ.
8. The applicant explained that she left her full-time job in March 2020 under the assumption that the process for a Manager's Certificate would go through, however the circumstances have now changed and she has been unable to get the required 6 months recent and relevant experience.
9. The applicant considers herself to be intelligent, compassionate and an astute and good operator. Her life experience, industry knowledge and management skills make her a good candidate for a Manager's Certificate. The applicant asked the District Licensing Committee to give her the opportunity to gain employment in the industry. In her closing statement, the applicant made clear that if she is successful, she will get back in the industry. She lives and breathes the industry.
10. Mr Hobson appeared at the hearing in support of the application. He spoke positively about the applicant's experience in the industry, life skills and ability to read someone – the sort of skills that you cannot learn in a 6-month period. Mr Hobson explained that “while the purchase of the Star and Garter will not proceed, he is exploring another avenue and if all goes to plan, he would use Ms Sheard without hesitation.”

Reporting Agencies

Licensing Inspector

11. In her report dated 31 July 2020, the Licensing Inspector opposed the application on the grounds of recent and relevant experience and suggested to the Committee that they consider giving the applicant time to gain the required training and experience, by placing the application on hold for a period the Committee deems appropriate; or convening a hearing to enable the applicant the opportunity to present information in support of her application.
12. The applicant met with the Licensing Inspector and New Zealand Police on 11 August 2020. She brought her prospective employer, Mr Howard Hobson, with her

for support. Following that meeting, the Licensing Inspector submitted a supplementary report which concluded:

“having further considered the application and the additional information discussed, the Licensing Inspector is of the opinion that Ms Sheard:

- Has good knowledge of the Act and her role as a duty manager, and
- Her approach to the patrons will assist in ensuring compliance at the premises.

Her circumstances, and the current employment environment are not conducive to easily obtaining additional experience at this time.

The Inspector requests the Licensing Committee positively consider weighing her knowledge, skills and previous hospitality experience against her lack of recent and relevant experience.”

13. The Licensing Inspector gave evidence at the hearing. The Licensing Inspector spoke of her initial and supplementary reports and identified concerns in relation to the applicant’s lack of recent and relevant experience under the new Sale and Supply of Alcohol Act 2012. She acknowledged the applicant’s previous experience and the difficulties post COVID-19 and the limited employment opportunities.
14. The Licensing Inspector provided options to the District Licensing Committee:
 - (a) grant the issue of a Manager’s Certificate with the agreeance that the applicant would work alongside certificate-holding Manager’s; or
 - (b) place the application on hold for a period (up to six months).
15. During the hearing, the Committee questioned the substantive reasoning for the difference between recommendations in her reports. The Licensing Inspector explained that the initial report was written by considering what was on the papers and a telephone conversation with the applicant. When she met the applicant in person, the Licensing Inspector was able to assess her demeanour, knowledge, capacity to be a manager, and approach to things. The Licensing Inspector was able to get a sense of her and obtain more knowledge and background information.

New Zealand Police

16. In her report dated 22 June 2020, Constable Craddock stated that the “New Zealand Police have no objection to the application, subject to the Inspector’s satisfaction that the minimum required experience has been completed.”
17. During the hearing, Constable Craddock explained that she had the opportunity to meet with the applicant and the Licensing Inspector on 11 August 2020. Constable Craddock stated that while the applicant’s experience is not lacking, it is unfortunate with the placement of COVID-19 that additional work was untenable.

Decision and reasoning

18. The Committee must be satisfied that the applicant meets the criteria as set out below in s. 222 of the Act.

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.*
19. This has been an evaluative exercise. The Committee has stood back and evaluated the evidence for the applicant and weighed that in terms of the evidence provided by the Licensing Inspector.
20. The Committee considered the weighting to be applied to recent and relevant experience. The Committee believe that in this case, more weighting should be given to relevant versus recent experience.
21. We are satisfied that the applicant meets the criteria as set out in s. 222 of the Act and grant the application accordingly. The Manager's Certificate may issue immediately.
22. The Manager's Certificate will be issued for a one-year probationary period initially which enables the applicant the opportunity to demonstrate their knowledge of the Act and gain more recent experience with managing a licensed premises.

DATED at Amberley this 7th day of September 2020

Mani H. Black.

Chairperson
Hurunui District Licensing Committee