

IN THE MATTER

of the Sale and Supply of Alcohol
Act 2012 Act

AND

IN THE MATTER

of an application by **JESSICA
ANNE FIFE** pursuant to s.224 of
the Act for renewal of a
Manager's Certificate

BEFORE THE QUEENSTOWN LAKES DISTRICT LICENSING COMMITTEE

Chairman: Mr E W Unwin
Members: Mr L A Cocks
Mr J M Mann

HEARING at QUEENSTOWN on 6th April 2017.

APPEARANCES

Mr Nathan Peter Bates – Licensing Inspector – to assist
Sergeant T. Haggart – Queenstown Police – in opposition
No appearance by or on behalf of the applicant

RESERVED DECISION OF THE COMMITTEE

Introduction

[1] Before the committee is an application by Ms Jessica Anne Fife for the renewal of her Manager's Certificate. The certificate was due to expire on 4th August 2016, and the renewal application was received by the Agency on 9th June 2016.

[2] Ms Fife did not appear at the hearing. Staff advised us that she had apparently been under the assumption that as her certificate had been suspended by the Alcohol Regulatory and Licensing Authority (the Authority); she would not have to appear. In other words she had already been disciplined by the Authority for driving with excess breath alcohol content, and as this was the basis for the Police objection, she would not be facing further action before this Committee.

[3] We proceeded with the hearing in her absence. Following the hearing, staff found an email sent by Ms Fife to the Agency some two hours prior to the hearing commencing, saying that she was unable to attend.

The Application

[4] Ms Fife is from Dunedin and is 37 years old. She currently lives and works in Wanaka. She has held a Manager's Certificate issued by the Queenstown Lakes District Council since the 30th August 2013, and previously held a Certificate issued by the Dunedin District Council.

The Police Opposition

[5] The Police received the application on 30th November 2016 and opposed it under s.222 of the Act based on suitability and a conviction against the applicant. On the 9th October 2016, Ms Fife was found driving with excess blood alcohol. She was convicted in the Queenstown District Court on the 30th October 2016. Her breath alcohol level was 744 micrograms of alcohol per litre of breath.

[6] Sergeant Tracy Haggart for the Police advised us that following Ms Fife's conviction, application was made to the Authority for suspension of her Manager's Certificate. The Authority subsequently suspended Ms Fife's Manager's Certificate for 28 days from Monday 20th March 2017.

[7] Initially, Sergeant Haggart recommended the normal stand down period of two years following a conviction be imposed. However, this is a guideline based on case law and applies to those making an application for a new certificate. In her closing submissions Sergeant Haggart advised that because the matter had now been dealt with by the Authority, the Police would no longer oppose the renewal of Ms Fife's Managers Certificate, once her suspension period had ended.

The Licensing Inspector

[8] The Inspector provided a comprehensive report on the application which showed a rather tortuous drawn out process due to incomplete information and tardy communication on the part of the applicant. There was also some confusion regarding the type of application (ie. new or renewal of Certificate). The Agency received the last of the required supporting documentation on the 29th November 2016.

[9] The Inspector reminded us of what we must have regard to under s.222 of the Act and brought to our attention the decision **White (2009) NZLLA 1021** where the authority decided on a matter in which the applicant had applied for a renewal of a Managers Certificate, and had three convictions during the previous three years, one of which was for excess breath alcohol. In the decision the Authority stated:

“In terms of the renewal process we considered refusing to renew the General Manager's Certificate. However, having heard from Mr White and taking into account his long standing employment in the industry we are prepared to renew the certificate. In the circumstances, we believe that the period of the renewal should be truncated. We hope that the reduced period of renewal will be a reminder to Mr White of his obligations under the Act.”

The Committee's Decision and Reasons

[10] As stated above, this application is for the renewal of a Managers Certificate. We acknowledge that this has been a difficult application for agency staff with the applicant's responsiveness to the process at times quite tardy, bringing in to question her suitability to be a manager.

[11] The application for renewal of Manager's Certificate was in process when the applicant was convicted for driving with excess blood alcohol. The applicant was subsequently reprimanded for this conviction by having her Manager's Certificate suspended for 28 days. Police acknowledged this by submitting there would be no opposition to the renewal application after the suspension was completed.

[12] At the hearing reference was made to Ms Fife working in a kitchen of licensed premises rather than behind a bar. She was not present to advise of her current or future working conditions, and we therefore remind her that we believe that it is unlikely that she can adequately carry out any role in a kitchen at the same time as managing and supervising licensed premises.

[13] Considering the reports provided and submissions made, we are satisfied that Ms Fife's Manager's Certificate can be renewed, but to remind Ms Fife of her obligations under the Act, the renewal period will only be for two years, which means that it will fall due for renewal again on 4 August 2018.

DATED at Queenstown this 8th day of May 2017



L. A. Cocks
Commissioner