

IN THE MATTER

of the Sale and Supply of
Alcohol Act 2012

AND

IN THE MATTER

of an application by **TOBIAS
WARWICK FAY**, of Wanaka
pursuant to S.219 of the Act for a
Manager's Certificate

BEFORE THE QUEENSTOWN LAKES DISTRICT LICENSING COMMITTEE

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

HEARING at QUEENSTOWN on 12th September 2017

APPEARANCES

Mr T W Fay – applicant
Ms T McGivern – Licensing Inspector – to assist
Sergeant T. Haggart – Queenstown Police – in opposition

RESERVED DECISION OF THE COMMITTEE

Introduction.

[1] Before the committee is an application by Tobias Warwick Fay for a new managers certificate. The application was received by the Agency on the 19th July 2017.

The Application.

[2] Mr Fay is from Adelaide Australia and is 27 years of age. He has successfully completed the Licence Controller Qualification (LCQ) and has passed the Queenstown Lakes District Council (QLDC) test requirement as part of the application process. He has been employed at a licensed premises in Wanaka known as "Lalaland" since 26th June 2017. Prior to this he worked as a barman and acting bar manager at "The Common Bistro" in Western Australia from 11th November 2015 to 1st June 2017.

The Police Opposition.

[3] The application was opposed by the Police under s222 of the Act
(c) any experience, in particular recent experience, that the applicant has had in controlling any premises for which a licence was in force:

[4] Sergeant Haggart submitted that the references attached to the application showed that Mr Fay has two months recent experience in New Zealand working at "Lalaland" since 26th June 2017, as well as 18 months experience in Australia working at "The Common Bistro" in Western Australia. She acknowledged the applicant's experience involved with

alcohol sale and supply in Australia but contended this is not under the Sale and Supply of Alcohol Act 2012 in New Zealand.

[5] Sergeant Haggart advised that “Lalaland” is a small popular bar located in the Wanaka CBD which has had some issues in the past that the Police have had to deal with. She emphasised that the Police would expect any person applying for a managers certificate in a local bar to have the minimum six months experience generally required, and backed this up by referring to previous decisions made by the Authority.

[6] When asked about her view on the relevance of experience in Australia, considering our similar cultures, Sergeant Haggart commented that consistency in the law is different but experience assessing intoxication, ages and other alcohol related regulations would be much the same. She added that the similarities in alcohol management between Australia and New Zealand does not apply to all countries.

The Licensing Inspector.

[7] The Inspector submitted that the applicant’s suitability and knowledge of the Act was not in question. She advised us the applicant has no known criminal convictions and has successfully completed the LCQ and verbal test required by the QLDC.

[8] With regard to the applicant not having six months New Zealand experience which is the basis for the police opposition, the Inspector reminded us that six months experience in New Zealand has been used as a guide but legislation does not stipulate this is a requirement. She also suggested that lack of experience in the conduct of licensed premises is not necessarily fatal to an application and referred us to Re Johnston LLA 722/96, 23 April 1996 where the former Authority said at [1]:

“Although neither of the applicants has previous experience or training in the hospitality industry they are both industrious and demonstrated to us that they know where to turn for appropriate skills and advice.”

[9] In this case however, the Inspector acknowledged the applicant’s time working in the hospitality industry in Australia since 2008 and that he had obtained his RSA certificate (LCQ equivalent in Australia) in 2014. She therefore considered he had demonstrated enough knowledge and experience to be granted a managers certificate.

The Applicant.

[10] Mr Fay outlined in detail to us his work experience in the hospitality industry and specifically in the supply of alcohol which started at the “Cable Beach Club Resort” in Broome in 2008. He told us he went on from there to work in a variety of licensed premises in different parts of Australia before moving to New Zealand for a fresh start. He advised us that the Australian equivalent of the LCQ is the National Responsible Service of Alcohol (RSA) Certificate which he attained. Based on his nine years hospitality experience, training and qualifications, Mr Fay submitted that he considered he is most certainly experienced enough to gain the managers certificate.

[11] In response to questions Mr Fay told us he had been to New Zealand twice before but this time he plans to stay for the foreseeable future. He described the “Lalaland” operation in some detail including being used as a temporary manager at least twice a week. The issues are the same he has encountered in other bars and he conveyed confidence in dealing with these issues. He suggested the alcohol rules are stricter in Western Australia, especially in relation to intoxication. With regard to the similarities of drinking culture in Australia and New Zealand, he considered them to be much the same and the problems such as binge drinking are the same.

[12] Mr Larcombe told us he employed the applicant at “Lalaland” because of his experience in Australia and the references he provided. He went on to tell us of his confidence in the applicant’s capability and reliability.

The Committee’s Decision and Reasons.

[13] The source and relevance of Mr Fay’s experience is the question. He has nine years experience in the hospitality industry in Australia and two months in New Zealand. The Police opposed the application because the applicant does not have six months experience under the Sale and Supply of Alcohol Act 2012.

[14] The point of contention is whether the Australian experience can be used to justify the approval of managers certificates. We heard from the applicant and Sergeant Haggart that the drinking culture and related problems faced are similar in both countries although the laws and regulations may differ. The Licensing Inspector also made it clear in her submission that experience acquired in Australia is applicable for managers certificates in New Zealand. We accept and agree with these views.

[15] We have been presented with evidence that shows Mr Fay is suitable and has the knowledge to hold a managers certificate. He has attained the LCQ, and passed the QLDC test. Mr Fay made a good impression in the witness box, and displayed a good understanding of the object of the Act. He also has nine years experience working in the hospitality industry in Australia which we accept as relevant and complements the two months experience in his current role at “Lalaland”.

[16] Accordingly, the Committee rules pursuant to S 221(1) of the Act, that the above application for a new Managers Certificate is approved.

DATED at Queenstown this 25th day of September 2017.



L A Cocks
Chairperson

