

IN THE MATTER

of the Sale and Supply of Alcohol
Act 2012 Act

AND

IN THE MATTER

of two applications for a
Manager's Certificate by
SIOBHAN ROSE DOEL pursuant
to s.219 of the Act

BEFORE THE QUEENSTOWN LAKES DISTRICT LICENSING COMMITTEE

The First Application

[1] On the 18th January 2016, Ms Siobhan Rose Doel (the applicant) applied to the Queenstown Lakes District Licensing Agency for a Manager's Certificate. At the time Ms Doel was from Whangarei, and was 28 years old and was the holder of the Licence Controller Qualification.

[2] The application was accepted for processing but at the time the fee had not been received.

[3] The application was sent to Police who opposed on the 12th February 2016 for the following reasons;

"Police oppose pending a meeting with the applicant. The Police Liquor Licensing Sergeant has been unable to contact DOEL during the reporting time frame to discuss previous behavioural issues. However, a meeting with DOEL has now been arranged for the 16th February".

[4] Agency staff emailed Ms Doel on the 12th February to advise her of the Police opposition and the proposed meeting. She was also advised that the application fee remained outstanding and needed to be settled prior to the meeting. Ms Doel did not respond to this email. Staff followed up on the 26th February noting that Ms Doel's employment premises had closed and advising that another reference was needed by the 29th February otherwise the application would be rejected as being incomplete. There was no response from the applicant.

[5] Agency staff sent a final email on 21st April 2016 which stated that as the application was incomplete, and no payment had been received, the application had been rejected and sent back to the applicant.

The Second Application

[6] Against that background, Ms Doel filed a second application which was received by the Queenstown Lakes District Licensing Agency on the 14th October 2016. The Inspector's report stated that the application was incomplete when received by the agency as no work references were included. Agency support staff emailed the applicant on the 18th October requesting the required references. One reference was received on the 20th October which showed Ms Doel had been employed since the 8th August 2016 at the Bathhouse Restaurant premises in Queenstown as part of the floor staff team.

[7] The application was sent to Police for reporting purposes on the 27th October 2016 and a report in opposition was received back from them on the 28th October.

Police opposed under s222 (a) the applicants suitability as a Manager stating that the applicant "...has two active charges currently before the Queenstown District Court, for shoplifting on the 26th July 2016"

[8] Ms Doel was advised of the Police opposition and of the options that were available to her on the 7th December 2016. The information was responded to by Ms Doel's lawyer by phone. He advised the agency that his client had name suppression until the pending charges were dealt with, and requested discretion with matters relating to the application and Ms Doel. The agency responded that discretion was a matter of course, but a response to the 7th December email regarding the applicants options was required.

[9] On the 11th December 2016 Ms Doel requested the application be considered by the District Licensing Committee. The Inspector noted that as at the 11th January 2017, the applicant had not completed the test required as part of the manager's application process. The Agency decided, due to the name suppression, to postpone sending the application to the District Licensing Committee until the pending charges had been heard by the District Court.

[10] Ms Doel had been booked in for her manager's test on the 25th January 2017 however she failed to attend and no explanation was received for her absence. Agency staff called and left voicemail and followed up with another call on the 27th January. There was no response to any of the calls or left messages from the applicant.

[11] On the 20th March 2017, Agency staff requested from Police the outcome of the charges against Ms Doel. On the 21st March, Police responded advising there was no name suppression, and that Ms Doel had been convicted in the Queenstown District Court on the 10th January 2017 for two shoplifting charges which occurred on the 20th July 2016, and one further charge of shoplifting which occurred on the 29th December 2016.

[12] On the 21st March 2017, after receiving the response from Police, agency staff tried to contact Ms Doel by email, phone and voicemail advising that if she did not contact the agency, the application would be forwarded to the District Licensing Committee for refusal. On the 23rd March, Ms Doel responded via email that she had been away up north with a very sick family member and had not been checking her emails. Agency staff requested she call them but to date, there has been no

response. Staff contacted her place of employment only to find that she had not worked at the premises for some time, since roughly November last year.

The Committee's Decision and Reasons

[13] The Committee is directed by s222 of the Act to have regard to 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 managing any premises or conveyance in respect of 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 under section 220 of this Act.*

[14] It is up to the applicant to satisfy us 'on the probabilities' as to her suitability. There are a number of cases that have established principles that help us in our decision making process. These cases clearly show that an applicant for a Manager's Certificate has to meet a high standard.

[15] In *Deejay Enterprises Limited* (LLA Decisions 531/97-532/97) the Authority stated:

"The broad pattern in recent years has been to gently raise the required standard for licensees and holders of a General Manager's Certificate....The "guiding hand" or "hands-on" operator of any company or the potential holder of a General Manager's Certificate now receives greater scrutiny from both the Police and other reporting agencies. Character and reputation are closely examined. The law and human desires of patrons frequently take different directions. The Police cannot be everywhere. Little but a licensee's or manager's character and suitability may stand between upholding the law and turning a blind eye. Self-imposed standards in accordance with the law must be set by licensees and by holders of General Manager's Certificates..... "

[16] In the decision of *Ian Neville Frith* LLA PH591/2005 the Authority stated:

"Since this responsibility was devolved to managers in 1999, there has been a drive to raise the standards of those charged with the responsibility of supplying liquor to the public. Current expectations are that the management of licensed premises is now conducted by persons of integrity who are committed to supervising the sale and supply of liquor, and concerned to give meaning to the term, 'host responsibility'. Mutual respect and co-operation between managers and the reporting and enforcement agencies, is a vital part of this expectation".

[17] And finally in the decision of **Graham Leslie Osborne** 2388/95 the Licensing Authority set out its view of how long a person should wait following receiving a

conviction in the Courts. Its view was that there should be a period of time where an applicant needed to show that he or she had learnt a lesson from the past and would be unlikely to 'fall from grace again'. A stand down period of five years was suggested for serious offending. The decision also stated that less serious convictions such as an isolated drink driving offence disclosing no pattern of offending, were also to be weighed. Such a situation would normally result in a minimum stand down period of two years before an application might receive favourable consideration.

[18] In this particular case there is a pattern of petty thieving the last of which occurred on 29 December 2016. Our expectation is that the applicant in this case should be asked to wait at least two years before we could be satisfied that she now has a greater respect for the law. At this stage in her life she is clearly unsuitable to take charge of licensed premises and ensure that the law with regard to sales to minors or intoxicated persons is obeyed and that safe drinking is encouraged. This means that she can re-apply for a Manager's Certificate after December 2018 provided she has been out of trouble between now and then.

[19] There are other issues. In terms of the **Frith** decision (supra), the applicant has made no attempt to co-operate or assist the Agencies. For one reason or another she has failed to establish good lines of communication. Furthermore, there is no evidence that she is currently employed in the Industry. We do not issue Certificates in a vacuum. They must be working documents. It is only if a person is employed in the industry and has gained the trust of a licensee who is willing to allow her to manage licensed premises on her own, that we will consider a grant.

[20] The applicant in this case has fallen well short of the standards of communication and behaviour required of certificated managers of licensed premises. Quite apart from the matters addressed by the District Court, Ms Doel has failed to respond to telephone, email and voicemail requests. She has failed to attend pre arranged meetings with agency officers and staff. She has displayed little regard to the efforts of agency staff to progress her application. The Committee notes both the Agency's and the Police attempts to communicate meaningfully with Ms Doel, with little success. The sum total of these behavioural issues leads the Committee to the conclusion that Ms Doel does not meet the requirements it must have regard to under s222 of the Act.

[21] The Committee decided that calling for a public hearing would be an exercise in futility. We rule pursuant to S 221(1) of the Act, that the application for a Manager's Certificate by Siobhan Rose Doel is refused.

DATED at Queenstown this 3rd day of April 2017



J M Mann
Commissioner
Queenstown Lakes District Licensing Committee

