

IN THE MATTER

of the Sale and Supply of
Alcohol Act 2012

AND

IN THE MATTER

of an application by **KEEGAN
RAYMOND IRAIA** of Queenstown
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 K R Iraia – 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 Keegan Raymond Iraia for a new manager's certificate. The application was received by the Agency on the 24th July 2017.

The Application.

[2] Mr Iraia is from Timaru and is 29 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.

[3] Mr Iraia is currently employed at "Hamills Restaurant and Bar" in Frankton as a waiter and has been there since 1st March 2017. The Restaurant Manager provided a reference in which she stated:

'In the time I have known him Mr Iraia has proven to be a very trustworthy employee and responsible employee. He has no problem to follow and enforce the Sale and Supply of liquor and our host responsibility like asking for ID when suited, following our licensing hours etc.'

[4] He previously worked at "Super Liquor" as a retail assistant from April 2016 to February 2017 and a reference from his employer stated she would 'highly recommend Mr Iraia for any customer role' and described him as 'loyal, trustworthy and reliable'.

The Police Opposition.

- [5] The application was opposed by the Police under s222 of the Act
- (a) the applicant's suitability to be a manager:
 - (b) any convictions recorded against the applicant:
- [6] Sergeant Haggart reported the applicants convictions as follows:
- (a) At approximately 3-20am on the 28th February 2016, the applicant was arrested in Timaru for fighting in a public place following an argument at the McDonalds drive through after being held up by the vehicle in front of them. He was released with a Pre Charge Warning.
 - (b) On the 11th May 2015 he was convicted in the Queenstown District Court for disorderly behaviour following an incident on 3rd March 2015, where he was removed from a bar for intoxication and then continued to aggressively approach security outside the bar.
 - (c) On the 20th May 2014 he was convicted in the Timaru District Court for driving with excess blood alcohol content on 5th May 2014.
 - (d) On 24th September 2010 he was convicted for male assaults female on the 17th January 2010.
 - (e) He was also dealt with by the Police Diversion scheme for two matters in 2007.
- [7] The Police have concerns at the pattern of offending and although he was given a warning in the most recent incident, his suitability to hold a manager's certificate is in question.

The Licensing Inspector.

[8] The Inspector submitted that due to the applicant's negative interactions with the Police in the past, the suitability of the applicant is what is in question and provided extracts from several cases where 'suitability' has been addressed, for the Committee to consider. She acknowledged that the applicant has not been convicted of any criminal offences since May 2015, however expressed concerns surrounding the pattern of offending.

The Applicant.

[9] Mr Iraia told us he made enquiries about applying for a manager's certificate in May 2015 while working at the "Tekapo Tavern" but was advised by the Timaru Police he had to be two years conviction free. Based on this he continued to work in the industry and once two years had lapsed made this application under the impression it would be unopposed.

[10] With regard to the last police interaction which was in the last two years, Mr Iraia expressed his disappointment at how it was reported as he believed the investigating officer told him the next day he had done everything possible to avoid the situation and was the one trying to calm it down. He did admit he had been drinking and acknowledged he had been arrested for his actions in this incident and had signed the Pre-Charge Warning and Release Notice.

[11] In response to questions Mr Iraia advised that he had not been appointed as a Temporary Manager in his current job and it was his initiative to apply for a manager's certificate. If he got it, he was not sure how it would be used at "Hamills" but he wanted it for career progression and more opportunities. He agreed that "Hamills" had not indicated a need for him to get a managers certificate. When asked about his drinking habits, he confirmed he drinks several times a week but not as much as previously. He has not sought alcohol counselling and not seen the need for any anger management help. He told us he thought he had turned his behaviour around since the court warning.

[12] Mr Iraia submitted that he felt his conduct over the last 24 months has been exemplary in terms of work and academic conduct and this was reflected in the references he provided. He considered his conduct in the workplace has always been professional and he always strives to know and carry out his obligations under the Sale and Supply of Alcohol Act 2012.

The Committee's Decision and Reasons.

[13] The suitability of Mr Iraia to have a Managers Certificate is the issue. When discussing 'suitability' Holland J in Re Sheard (1996) 1 NZLR 751 stated:

"Suitability is a word commonly used in the English language and is well understood. In an earlier decision the Authority has adopted the definition in the Concise Oxford Dictionary as 'well fitted for the purpose; appropriate'."

[14] The Police and Licensing Inspector submitted the suitability of the applicant is questionable because of his pattern of offending and negative interaction with the police. Mr Iraia argued that he was hard done by in the report of his latest interaction with the police and he believes he was trying to do the right thing. We see this as an example of the alcohol affected decision making that has resulted in his offending. We therefore agree that his suitability is questionable, but at the same time acknowledge the amount of work experience in the industry he has and the good references provided by his employers. On balance we would like to be more convinced his behaviour has improved and he has broken this pattern of offending.

[15] Mr Iraia has initiated this application, not his employer. He would like to have the certificate for career progression but there is no indication he will be employed as a duty manager at "Hamills". We are not willing to issue managers certificates as 'nice to haves', but rather as qualifications for current employment. In other words they should be working documents so that the holder is continually upskilled in terms of experience and the current law.

[16] Accordingly, this hearing is adjourned until 1st March 2018, at which time the Committee will:

- (a) reconsider the suitability of the applicant based on a police check and any issues reported; and
- (b) expect the applicant to have an employer who is willing to employ him as a duty manager with sole responsibility for the conduct of the licensed premises.

[17] If we are satisfied that these two hurdles have been overcome then it is probable that a decision will then be issued granting the application. If there are still concerns then the hearing will be resumed by way of a public hearing.

DATED at Queenstown this 26th day of September 2017.



L .A. Cocks
Chairperson

