

Decision No. 60B [2019] 2608

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012.

AND

IN THE MATTER

of an application by **Grace Marion Olliver** for a Manager's Certificate pursuant to s. 221 of the Act.

DECISION OF THE CHRISTCHURCH DISTRICT LICENSING COMMITTEE

Chairperson: **Mr P R Rogers**

Members: **Ms H White and Mr D Blackwell** QSM

Hearing: Christchurch City Council building on the 9 October 2019.

- [1] This is a Hearing concerning an application for a new Manager's Certificate by **Grace Marion Olliver**. The application was received on 10 July 2019 with the required documentation, convictions having been disclosed on the application.
- [2] The Police opposed the application on the grounds of suitability, pursuant to s. 222(a) of the Act, as a result of convictions for driving with Excess Breath Alcohol and Careless Driving on the 26 April 2019 with an offence date of 26 August 2018.
- [3] At the commencement of the Hearing the Committee suggested the Police and the inspector addressed the Committee first so as to give Ms Olliver the chance to reply to what they had to say. She agreed to this.
- [4] The Police stated they opposed the application as a result of the applicant having convictions within the last two years. A record of these convictions were supplied to the Committee in the bundle of documents received. The Police brought to the Committee's attention a Liquor Licensing Authority decision known as the *Osbourne* decision which sets out guidelines which have been followed in subsequent decisions. The inspector addressed the Committee that he had opposed the application based on information from the police due to alcohol related criminal convictions. He also referred us to the *Osbourne* decision.

- [5] It was confirmed with the applicant that she had received disclosures from the Police and inspector and she was aware of the matters mentioned. She had no questions of the constable or inspector.
- [6] The applicant then gave evidence reading from a prepared document. She spoke of working for Jetstar Airways for 4½ years and has recently been promoted to a position of Customer Service Manager on domestic and Trans-Tasman flights. As part of that role she is required to have a duty manager's certificate. She spoke of the situation and her deep regret of having been at a party the night before where she consumed alcohol and slept over at a friend's house. She then started to drive home not realising how much alcohol was still in her system. She thought she must have dozed off for a second before colliding with a light pole, in shock and in what she described as perhaps being in a state of "altered consciousness" she continued to drive and drove through a red light.
- [7] Since this incident she has attended various courses to improve her understanding around alcohol. She asked the Committee that she not receive a stand down period, but alternatively if there was to be one, it be for a 2 year period from the date of the offending which would mean a certificate could be issued from the 26 August 2020.
- [8] The Police and the inspector made brief submissions and said neither of them would be opposed to a 2 year stand down from the date of the offence while pointing the out *Osbourne* case to the guiding case in this matter.
- [9] The Committee duly considered the evidence produced, the evidence and demeanour of the applicant, s. 222(a)&(b) of the Act and the relevant case law. In coming to its decision, the Committee took particular note of the case law below:

Re Osbourne LLA PH2388/95 at page 5.

"Without fettering ourselves in this or other applications, it may be helpful if we indicate that we commonly look for a five year period free of any serious conviction or any conviction relating to or involving the abuse of alcohol, or arising in the course of an applicant's duty on licensed premises".

"Less serious convictions are also weighed. By way of example is an isolated excess breath/blood alcohol conviction, or a single driving offence disclosing no pattern of offending. Nevertheless, all convictions must be weighed as required by s. 121(1)(b). In these and similar cases we frequently indicate that a minimum of two years from the date of conviction may result in a subsequent favourable decision."

[10] The *Osbourne* case concerned an applicant applying for a new Manager's Certificate who had convictions, it is particularly helpful that the Judge commented that they would normally look for a 2-year period free of convictions before considering the granting of an application for a Manager's Certificate.

[11] The case below is an important case as it sets out the rationale for taking the stance that this Committee has taken:

Horse and Trap Tavern Limited and Stewart [2005] NZLLA 880 (12 December 2005)

[25] We believe that raising the bar for the holders of General Manager's Certificates and keeping it at a certain height, has the potential to bring about a reduction in the abuse of liquor nation-wide. If certain otherwise meritorious applicants suffer in the process, that may not be too high a price to pay in order to achieve this long-term goal.

[12] This Committee in considering this matter has to look at all the factors; this was an excess breath alcohol and careless use charge that the applicant pleaded guilty to and was convicted. In the bundle of documents given to the Committee, it received a copy of the Judge's notes on sentencing. He fined her on the alcohol related charge \$500.00 and she received 200 hours Community Service without a loss of licence. In relation to the careless use charge she was not fined but ordered to pay restitution of \$4624.68 at \$70.00 per week.

[13] Both the police and the inspector have stated that they would consider it appropriate if the application had a 2 year stand down period before being issued with a Manager's Certificate. The applicant accepts that there has to be a sanction and informed the Committee that Jetstar were aware of the charges.

[14] The Decision of the Committee is that this application is granted but the Certificate shall not be issued until the 26 August 2020.

DATED this 15 October 2019.



PR Rogers
Chairperson
Christchurch District Licensing Committee