

**IN THE MATTER**

of the Sale and Supply of Alcohol  
Act 2012 Act

**AND**

**IN THE MATTER**

of an application for a Manager's  
Certificate by **SAMUEL HOLMES**  
pursuant to s.219 of the Act

**BEFORE THE QUEENSTOWN LAKES DISTRICT LICENSING COMMITTEE**

**The Application**

[1] On the 7<sup>th</sup> November 2016 Mr Samuel Holmes (the applicant) applied to the Queenstown Lakes District Licensing Agency for a Manager's Certificate. At the time Mr Holmes was 26 years old, from the United Kingdom and was in New Zealand on a working holiday visa which expires on the 8<sup>th</sup> June 2017.

**The Inspector's Report**

[2] The Inspector provided a comprehensive report on the application stating that it was incomplete. Mr Holmes' previous employer's work reference did not include his termination date which is a key piece of information necessary to determine the appropriate work experience of the applicant, nor was the application accompanied by a copy of his Licensed Controller Certificate (LCQ).

[3] The report went on to describe a number of attempts that were made by Agency staff officers to contact Mr Holmes in an effort to progress the application. The agency emailed on the 10<sup>th</sup> November 2016 requesting the additional information required and received no response. A follow up email was sent to Mr Holmes on the 24<sup>th</sup> January 2017, again with no response. The report goes on to say that between the 20<sup>th</sup> February 2017 and the 3<sup>rd</sup> March staff tried numerous times to contact Mr Holmes and left messages asking him to provide his references along with a copy of his LCQ Certificate.

[4] Concurrently, staff contacted Mr Holmes' present employer to confirm that Mr Holmes was still an employee. The employer confirmed both Mr Holmes' employment and the thought they had that their employee had been waiting for an appointment time to complete his oral test, a requirement of a new manager's application. Finally on the 3<sup>rd</sup> of March 2017, agency staff contacted the employer again to say that if Mr Holmes did not contact them by mid-day the following day, the agency would be forwarding the application to the District Licensing Committee recommending that it be refused due to the unsuitability of the applicant. Later that day, Mr Holmes presented his Qualification and Achievement Summary (QAS) to the Wanaka office of the Agency. The agency staff acknowledged that the summary is a record of the components passed that make up the LCQ but it is not the certificate required for a manager's application.

[5] On the 9<sup>th</sup> March, the Inspector tried to contact both the applicant and the employer directly. Messages were left to respond to and they were encouraged to treat the matter with urgency. There was no response from either party.

[6] On the 20<sup>th</sup> March, staff sent the application to the Police for reporting purposes. It had been established that the application could proceed with the QAS portion of the LCQ. On the same day, staff also sent Mr Holmes an email asking him again to contact staff in order to arrange a time for his oral test, and also to provide him with a link so that he may obtain a copy of his LCQ certificate.

[7] The Police responded on the 23<sup>rd</sup> March 2017 and in their report there was no opposition to the application, but standard visa conditions would apply to the certificate. On the same day, agency staff tried to call Mr Holmes, also the premises where he worked, and left messages and voicemail. There has been no response to date from Mr Holmes.

[8] In concluding the Inspector reminds the committee of both the Alcohol Regulatory and Licensing Authority and our own indications in a number of decisions that a high standard is expected of those employed in the hospitality industry that have a right to sell and supply alcohol to the public. The Inspector goes on to suggest that as a result of Mr Holmes' not contacting the agency this brings into question his suitability under s.222 of the Act.

### **The Committee's Decision and Reasons**

[9] 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.*

It is up to the applicant to satisfy the District Licensing Committee of their suitability to be issued a Manager's Certificate. We on the committee have a number of guiding principles to assist us in assessing an application including the two following decisions:

[10] 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..... "*

[11] As is the decision LLA PH591/2005 of Ian Neville Frith where 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".*

[12] The applicant in this case has fallen well short of the standards of co-operation and communication with regulatory agencies required of certificated managers of licensed premises. Mr Holmes has failed to respond to telephone, email and voicemail requests. He has displayed little regard to the efforts of agency staff to progress his application. The result of this disinterested approach to obtaining a Manager's Certificate is inevitable. Mr Holmes of course is free to apply for a Manager's Certificate at any time but that will be sometime in the future. At this point in time, we agree with the Inspector's assertion that Mr Holmes does not meet the requirements we must have regard to under s222 of the Act. We did consider whether to set the application down for a public hearing but his apparent attitude and lack of interest in the outcome persuaded us that such a hearing would be a privilege that he has not earned.

[13] The committee rules pursuant to s 221(1) of the Act, that the application for a Manager's Certificate by Mr Samuel Holmes is refused.

**DATED** at Queenstown this 3<sup>rd</sup> day of April 2017



J M Mann  
Commissioner  
Queenstown Lakes District Licensing Committee