



DISTRICT LICENSING COMMITTEE

Application 018-0093
IN THE MATTER of the Sale and Supply of Alcohol Act 2012
AND
IN THE MATTER of an application by
David Barnett
for the renewal of a manager's certificate
pursuant to section 224 of the Act

OTOROHANGA DISTRICT LICENSING COMMITTEE

Chairperson: Mrs S Grayson
Members: Mr R Murphy, Cr R Johnson

HEARING at the Waipa District Council Chamber 1 November 2018

APPEARANCES

David Barnett – Applicant
Mrs M Fernandez - Licensing Inspector

DECISION OF THE OTOROHANGA DISTRICT LICENSING COMMITTEE

1. The application for a renewal of a manager's certificate is granted.
2. The manager's certificate is renewed for a further period of three years or if an application for the renewal of the certificate is made, until the application is determined.

Reasons

1. This application by David Barnett for the renewal of a manager's certificate was received on 24 May 2018. David Barnett is the co-owner and licensee of the Kawhia Hotel and has worked as a duty manager for eight years.

2. The Licensing Inspector and Police do not oppose the application. However, the Licensing Inspector highlighted in her report that when Mr Barnett was questioned regarding his position as a licensee, duty manager, the Act and conditions of the licence *“his answers were not as succinct as expected. After some rephrasing he managed to explain the requirements in his own way. As a result I have asked him to undertake the on-line Servewise course and submit the certificate as evidence of recent training to accompany the applications for renewal of the Hotel’s on and off-licences which is currently being processed”*.
3. The licensing committee considered it was appropriate to decide the application at a public hearing for a number of reasons. The Licensing Inspector raised some concerns about Mr Barnett’s knowledge of his responsibilities under the Act and recommended further training. Also, there was a breach in 2013 for being intoxicated on duty that we considered serious, and other concerns were raised resulting in an ARLA hearing that was eventually dismissed. This painted a picture regarding suitability that resulted in the committee feeling a hearing was necessary.
4. In considering an application for the renewal of a manager’s certificate the licensing committee must consider the following questions (s 227):
 - a) Is the applicant suitable to be a manager?
 - b) Have any convictions been recorded against the applicant since the certificate was issued or last renewed?
 - c) How has the applicant managed the sale and supply of alcohol with the aim of contributing to the reduction of alcohol-related harm?
 - d) Have the Inspector and Police raised any relevant matters in their reports?
5. David Barnett has not had any convictions since the manager’s certificate was last renewed. The Licensing Inspector advised the licensing committee that Police made an application to suspend Mr Barnett’s manager’s certificate, however in a decision dated 24 July 2018, the Alcohol Regulatory and Licensing Authority dismissed the application. In addition, Mr Barnett previously had his manager’s certificate suspended for one month from 1 May 2013 after being found to be extremely intoxicated while being the manager on duty. When questioned at the hearing today, Mr Barnett confirmed that he does not drink while on duty. This incident occurred prior to the last renewal period and there have not been any breaches of the Act proved in the past three years therefore the licensing committee does not consider that this incident should be taken into consideration.
6. Therefore, the only issue for the licensing committee to consider is whether Mr Barnett is a suitable person to hold a manager’s certificate, in particular whether he has appropriate knowledge and skills to carry out his obligations under the Act.

Does Mr Barnett have appropriate knowledge and skills to carry out his obligations under the Act?

7. Mr Barnett explained that he is committed to running the Kawhia Hotel properly by serving alcohol responsibly and taking steps to reduce the abuse of alcohol. He does not permit intoxicated patrons to remain on the premises and has barred a number of patrons from the premises for alcohol abuse and fighting. He has established a courtesy van and therefore patrons can get home safely. He has a big focus on food. When there is a big influx of visitors to Kawhia over the summer period, he employs registered security staff from Papakura to assist staff at the Hotel. He takes advice from the Licensing Inspector and Police about how to run the Hotel properly. He has now completed the on-line Servewise course, and found it to be very helpful for understanding his role as a duty manager.

8. When considering an applicant's suitability to hold a manager's certificate, the Licensing Authority provided guidance in *Re Sheard* [1996] 1 NZLR 751 that "The real test is whether the character of the applicant has been shown to be such that he is not likely to carry out properly the responsibilities that go with the holding of a licence".
9. There is no evidence before the licensing committee to suggest that David Barnett has not managed the sale and supply of alcohol with the aim of contributing to the reduction of alcohol-related harm. David Barnett answered the questions put to him by the licensing committee appropriately. The licensing committee is reassured that David Barnett has a good understanding of Host Responsibility principles and the conditions of the licence and has a responsible attitude to managing difficult patrons. Therefore, the licensing committee is satisfied that Mr Barnett is likely to properly carry out the responsibilities that go with the holding of a manager's certificate. The application for renewal of the manager's certificate is granted for further period of three years.

Dated this 2nd day of November 2018



Sara Grayson
Commissioner
Otorohanga District Licensing Committee