

**IN THE MATTER**

of the Sale and Supply of Alcohol Act  
2012 ("the Act")

**A N D**

**IN THE MATTER**

of an application from **Brieanna Jade  
Moore** pursuant to s219 of the Act for a  
new Managers Certificate  
Decision 262/2023

**BEFORE THE HOROWHENUA DISTRICT LICENSING COMMITTEE**

Chairperson: Cr Ross Brannigan  
Members: Mr Allen Little  
Mr Mike Lepper

**HEARING** at Levin on 14 December 2023.

**APPEARANCES**

- (a) Ms Brieanna Jade Moore – Applicant
- (b) Senior Constable Simon Carter, NZ Police – in opposition
- (c) Constable Scott Harvey, NZ Police – to assist
- (d) Mr Eric Gimpel, Alcohol Licensing Inspector – to assist

**DECISION OF THE DISTRICT LICENSING COMMITTEE**

**1. Introduction**

- 1.1 This decision relates to an application by Brieanna Jade Moore for a Manager's Certificate.
- 1.2 The application was filed on 20 July 2023, with the hearing held on 14 December 2023.
- 1.3 The applicant Ms Moore is currently employed at the Roadhouse Bar and Grill as a bartender or server, and has been in this role since April 2023. Prior to her employment at the Roadhouse Bar and Grill, Ms Moore had 5 months experience working in another licenced premises in Levin.
- 1.4 Ms Moore achieved her Licence Controller Qualification Certificate (LCQ) on 7 July 2022. This is Ms Moore's first application for a Managers Certificate.
- 1.5 The application was opposed by the NZ Police who called into question suitability of the applicant due to the applicants continued recidivist traffic offending, her failure to disclose pending Court appearances and the applicant's un-cooperative, abusive, hostile aggressive behaviour towards Police attending officers.
- 1.6 The Police opposition to the application was supported by the Alcohol Licencing Inspector.

**2. Reporting agencies**

- 2.1 The NZ Police opposed the application based on the applicants' suitability to be a manager, a consideration requirement for the District Licensing Committee under Section 222(a) of the

Act. Constable Courtney Hyde on behalf of NZ Police submitted a written statement and a brief of evidence to the Committee ahead of the hearing.

Senior Constable Simon Carter attended the hearing on behalf of NZ Police and read aloud the brief of evidence submitted by Constable Hyde.

2.2 In the evidence provided, with particular concern to NZ Police is applicants' history of being uncooperative and aggressive towards Police, concern of recidivist traffic offending, concern that the applicant had not disclosed a current (at the time) criminal charge for driving whilst her licence was suspended/revoked, and concern that the applicant had been involved in 33 previous family harm episodes reported to Police since 2013, of which in five (5) of the episodes the applicant presented as the predominant aggressor.

2.3 Reading Constable Hyde's written submission at the hearing, Senior Constable Simon Carter told the committee of Constable Hyde's own account of interactions she had had with the applicant whilst on duty, and of the Police having high concern regarding the applicants' behaviour. Furthermore, submitting that such behaviour of the applicant falls short of the expected standard for holders of a general manager's certificate and in the upholding of the law.

2.4 In the brief of evidence submitted by Police, Constable Hyde referred to case law [Rejays LLA 994/95, 15 July 1994]:

*"Differing aspects of suitability will be given different weight by decision makers under the Act. Among them are experience in the hospitality industry, management ability, and personal integrity".*

[Deejay Enterprises Limited LLA 531-532/97],

*"The guiding hand or hands on operator of any company or the potential holder of General Managers Certificates now received 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 by 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 holders of General Managers Certificates to control and manage licensed premises".*

[N R Davies LLA Decision 1240/98]:

*"in considering such applications, the applicants character and reputation of the applicant is crucial importance. As we have commented in other applications, both on and off duty conduct is to be weighed".*

2.5 NZ Police submitted that the DLC consider if a stand-down period for the applicant be appropriate.

2.4 The Alcohol Licensing Inspector also opposed the application based on the applicant's non-disclosure of her pending Court appearance. In his written report Mr Gimpel stated *"I support the Police in opposition to this application, and consider the applicant fails to meet the standards of Section 222(a) and (b)".*

### **3. Considerations of Section 222 matters**

#### **a. The applicant's suitability to be a manager;**

Though the Committee had some reservations in relation to the reported behaviour of the applicant and the emotional state of the applicant during the hearing, the Committee took note of the applicant's honesty and openness in sharing her experiences with them during the proceedings. The Committee were impressed by the applicant's apparent preparation ahead

of the hearing and noted that Ms Moore spoke well and was very articulate in her address, and in responding to questions of the Committee.

It was noted by the DLC that the applicant took responsibility for her past actions and that the applicant informed of changes in her personal circumstances that has put a stop to the family harm episodes.

*b. Any convictions recorded against the applicant*

The applicant has no convictions.

The charges that were before the courts at the time of Ms Moore submitting her application for a Managers Certificate were later withdrawn, and prior to the hearing date.

*c. Any experience, in particular recent experience, that the applicant has had in controlling any premises for which a licence was in force;*

The applicant Ms Moore has been working in the industry at the Roadhouse Bar and Grill since March 2023 and prior to that at Tonys Place Levin. Brianna has over six (6) months experience working in the industry.

*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;*

The Committee had no concern in this regard. Ms Moore completed a Licence Controller Qualification (LCQ), on 7 July 2022.

*e. Any matters dealt with in any report made under Section 220;*

The NZ Police and the Alcohol Licensing Inspector opposed the application on the grounds of suitability of the applicant and evidence was provided by both agencies during the hearing. These matters were considered in full by the Committee whilst considering this decision.

The Committee noted during the hearing that while Police and the Alcohol Licensing Inspector opposed the application, a level of empathy was detected from all parties with regards to the circumstances surrounding the applicants' situation.

#### **4. Decision**

- 4.1 The Committee observed the applicant as a person who appeared to own up to her mistakes and who expressed what appeared to be remorse for her previous behaviour. The applicant outlined her personal circumstances relating to traffic offences and explained having made an honest mistake in not disclosing her pending court charges having understood from the Court that they were to be withdrawn. The matter was in-fact withdrawn.

The Committee took a level of comfort in the support provided to the applicant by her employer who was present as a support person during the hearing, and in the written references provided for the applicant.

Based on the evidence presented at the hearing, the Committee expects the applicant to have learnt from their recent experiences, and expects the applicant to ensure no further offending occurs that may jeopardise any subsequent managers' certificate applications in the future.

- 4.2 The Committee said that it was right of NZ Police to bring this matter before a DLC hearing to consider the issue of the certificate.
- 4.3 The Committee considered the opposition by Police and the Alcohol Licensing Inspector to be fair, and the hearing proceedings to be balanced. The Committee acknowledge the suggestion

from Police and the Alcohol Licencing Inspector proposing the DLC consider a stand-down period for the applicant before the issue of a new certificate.

- 4.4 Having regard to all evidence and suggestions before them, the Committee considered that given there is no matter of convictions and the relatively minor offences reported against the applicant concerning past conduct, the Committee determined a further stand-down from the period in which it took for this matter to be before the DLC was not necessary, and furthermore the Committee believe that on balance the applicant deserves an opportunity to succeed in her chosen employment path.
- 4.5 It is therefore the decision of this Committee is to issue a Manager's Certificate to Brianna Jade Moore for one (1) year from the date of this decision.

**DATED** at LEVIN this 20<sup>th</sup> day of December 2023.

A handwritten signature in black ink, appearing to be 'R J Brannigan', written in a cursive style.

R J Brannigan  
**Chairperson**