

Decision No. PH 287/2000

**IN THE MATTER**

of the Sale of Liquor Act 1989

**AND**

**IN THE MATTER**

of an application by **DONNA LEE OGLE** pursuant to s.123 of the Act for renewal of a General Manager's Certificate

**BEFORE THE LIQUOR LICENSING AUTHORITY**

Quorum: Mr R J S Munro  
Mr J M Thompson

**HEARING** at AUCKLAND on 2 February 2000

**APPEARANCES**

Miss D L Ogle – applicant in person  
Mr G S Whittle – Auckland District Licensing Agency Inspector – in opposition  
Constable J M Tucker – NZ Police – in opposition

**DECISION**

This is an application by Donna Lee Ogle for renewal of a General Manager's Certificate. Miss Ogle was granted a certificate on 30 October 1995.

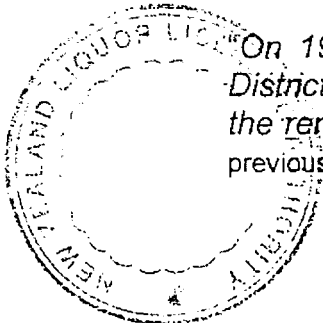
The application was opposed by the Police and an Auckland District Licensing Agency Inspector on the grounds that the applicant had failed to disclose previous convictions when completing the renewal form.

By consent we heard first from the Police and a Licensing Inspector. Constable J M Tucker told us that the Police objected to the application on the grounds of criminal convictions. She produced a list of convictions:-

- 22 September 1996 – Drove with excess breath alcohol
- 22 May 1997 – Failed to give name and address on demand
- 22 May 1997 – Drove while disqualified

Mr G S Whittle, an Auckland District Licensing Agency Inspector, gave evidence in opposition:-

*On 19 October 1999 the applicant lodged an application with the Auckland District Licensing Agency for renewal of a manager's certificate. A question on the renewal form says 'Has the applicant been convicted of any offence since the issue of previous manager's certificate?' The applicant answered this question 'No'.*



*I interviewed the applicant at 8.50 am on 17 November 1999. At this time I asked her why she did not mention previous convictions and she replied 'I lied and I was not working in the bar. I forgot about them.'*

*At present the applicant is not working on licensed premises. She is currently employed as a Tape Administrator ..."*

Miss Ogle admitted that she had forgotten "*about the whole thing*". She had filled out the form in a hurry. Driving with excess breath alcohol was a mistake and the other charges arose from "*stupidity in my case*". She had been working in a Wellington tavern and she "*loved the hospitality part of it*". She liked meeting people. She had taken a position in Wellington with a computer company and transferred to Auckland, "*I wanted to put the past behind and get my life back on track again*". She intended working in licensed premises again.

When Mr Whittle questioned the applicant on provisions of the Sale of Liquor Act, she had difficulty answering questions accurately.

### Conclusion

In considering an application for the renewal of a General Manager's Certificate, the Authority is directed by s.126 of the Act to have regard to the following matters:

- "(a) the character and reputation of the applicant;*
- (b) any convictions recorded against the applicant since the certificate was issued or last renewed;*
- (c) the manner in which the manager has managed the sale and supply of liquor pursuant to the licence;*
- (d) any matters dealt with in any report made under s.124 of this Act."*

Miss Ogle did not accurately answer the question regarding her convictions; and as we have stated in previous decisions, that action raises a question as to her character in terms of s.121(1)(a) of the Act. The excess breath alcohol and disqualified driving offences are relatively recent.

In these circumstances we are not prepared to grant the application.

In so determining we note a comment by Holland J in a High Court appeal Hayford v Christchurch District Licensing Agency (High Court, Christchurch, 3 December 1993, AP 201/92 pages 9 and 10) in relation to the grant of a liquor licence:

*"... a finding should not be infinite ... I would not want it to be said that because this Court has said he is a person unsuitable to carry on a licence that should permanently be regarded as the situation ... In the event of him making an application for a new licence under the Act he will, of course, have to face the fact that this finding exists, but it will be for the tribunal considering any such application to consider whether on that occasion and at that time he is a suitable person to hold a licence."*

Similar considerations apply to General Manager's Certificates and their renewal.

Miss Ogle may apply again for a General Manager's Certificate at any time. A period of satisfactory employment in the hospitality industry and favourable recommendations from the Police and a District Licensing Agency Inspector would obviously assist.

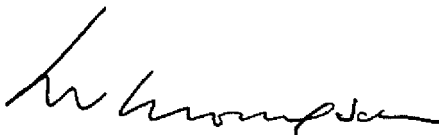
The application is refused.

**DATED** at WELLINGTON this 3rd day of March 2000

  
R J S Munro  
Member

Ogle.doc(J9)



  
J W Thompson  
Member

