

**IN THE MATTER** of the Sale and Supply of Alcohol  
Act 2012 (“the Act”)

**AND**

**IN THE MATTER** of an application by **Sukhbir SINGH** pursuant to s.219 of the  
Act for the grant of a Manager's  
Certificate

**HEARING BEFORE THE FAR NORTH DISTRICT LICENSING COMMITTEE**

**Members:** Mr Murray Clearwater (Chairperson)  
Mr Martin Macpherson (Member)  
Mr John Thorne (Member)

**HEARING** at **KAIKOHE** on 12 February 2024

**APPEARANCES**

Mr Jon Wiles counsel for the applicant  
Mr Sukhbir Singh (applicant)  
Mr Milanpreet Singh to assist the applicant  
Ms Megan Edwards – Far North District Alcohol Licensing Inspector – in opposition  
Sergeant Michelle Row- Police- to assist

**RESERVED DECISION OF THE COMMITTEE**

**INTRODUCTION**

1. This is an application made by **Sukhbir Singh** for the grant of a manager’s certificate.
2. The applicant is currently employed at The Shed Liquor Centre in Kaikohe. He holds the LCQ and has a Serve Wise Certificate.
3. The Police reported with no matters of opposition.
4. The Licensing Inspector reported on the application and expressed concerns that the written test results and unsatisfactory interviews, around the applicant’s knowledge, and his ability to satisfactorily communicate in English.
5. As this is a very high-risk environment, and high-risk premises, the Committee set the matter down for hearing.

6. Prior to the hearing the applicant asked if his friend and co-worker Milanpreet Singh could act as an interpreter for him at the hearing. The Committee allowed Milanpreet to attend as a support person, but the applicant still needed to be able to communicate effectively in English.

## **EVIDENCE OF THE APPLICANT**

7. Mr Wiles opened for his client and acknowledged that English was Mr Singh's second language, but he was confident that he would be able to satisfy the Committee that his knowledge of the Act was satisfactory and his grasp and understanding of the English language was sufficient to perform in the role of Duty Manager.
8. At the hearing Mr Singh addressed the Committee and responded to questions. He read a short brief of evidence well and told us he has been working at The Shed for the last 10 months.
9. He acknowledged his difficulties with the English language and told us he knows he must not serve minors or intoxicated persons. He said he also knew that "*it is important to record any incidents and ensure that any incidents are recorded in the incident book.*"
10. Under cross-examination he was asked by the Inspector where he had undertaken the course of study for his LCQ. Despite significant prompting by the Inspector and the Committee he was unable to tell us where and how he obtained the LCQ.
11. He was asked to explain how he would deal with an incident out in front of the store. Again, after significant prompting from the Committee, and his support person, he told us he would call the Police. He was confused as to what was the required emergency services three digit telephone number.
12. He was asked how many intoxicated persons had presented themselves to him wanting to buy alcohol. He said in his 10 months of work at these premises that had not occurred, and he had never refused service to a potentially intoxicated customer.
13. He confirmed that he had been working as a Temporary Manager for the last two months. The applicant was constantly looking to his support person for help, and he was unable to comprehend plain English questions. The Committee also found it difficult to understand the responses on occasions that the applicant did offer.

## **THE POLICE**

14. Sergeant Michelle Row confirmed to the Committee that she had had no adverse dealings with Mr Singh, but that premises was situated in a high-risk, high deprivation area, and would be exposed to minors and intoxicated persons seeking to purchase alcohol.

15. She confirmed to Mr Wiles that the premises had not come to adverse notice in recent times.
16. When questioned by the Committee members, the Sergeant confirmed that Kaikohe is a deprived area, and the abuse of alcohol is a serious problem. She said she did have concerns about Mr Singh's ability as a manager as premises like this one needed confident, competent, certificated managers on duty.
17. She said the nearby park was a popular place for people to congregate and subject to resourcing, she agreed the Police should be taking a stronger approach to breaches of the alcohol ban in the area.

## **THE INSPECTOR**

18. The Inspectors Report was taken as read and Ms Edwards confirmed that she was still concerned that the applicant did not fully understand his obligations under the Act and that he would have difficulty communicating in English with customers.

## **THE LAW**

### **Section 222 Criteria for manager's certificates**

In considering an application for a manager's certificate, the licensing committee or licensing authority, as the case may be, must consider 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 controlling any premises for 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 made under [section 220](#).

## **REASONS FOR THE DECISION**

19. There are three options open to the Committee. Grant the certificate now, adjourn the application for a period of time for the applicant to gain further confidence in communicating in English, or to refuse the application.
20. The Committee was unimpressed that the applicant's employer, Jarnail Singh, chose to open the store rather than come to the hearing and support his employee. It would have been helpful for Jarnail to see Sukhbir Singh's struggle to answer questions for himself. We were equally concerned to hear the Sukhbir Singh was often at the store alone and in charge.

21. Following the Committee's questioning of the applicant both the Inspector and Sergeant were asked if they felt more, or less confident, in the applicant's ability to manage licensed premises. Both replied they were less confident.
22. It is critical for managers and staff in licensed premises that they know the provisions of the Act and can communicate clearly and confidently in English.
23. As the Liquor Licensing Authority (LLA) stated, in its decision of Lim [2005] NZLLA PH 887/205<sup>1</sup> at paragraph [8] onwards, in particular the position it took regarding the inability of applicants to communicate with patrons in English.

*"If a manager is unable to communicate with the patrons in the English language, or with representatives from the enforcement agencies, then there is no way that we can be satisfied that the provisions of the Act, (in particular relating to sales to prohibited persons), will be respected and complied with.*

24. We are firmly of the view that the certificate cannot be granted at this time. Equally we are not satisfied that Mr Singh will be sufficiently competent and confident in English in 6-12 months' time. This is a very high-risk activity and environment, and only experienced and competent persons should be managing licensed premises in this environment.
25. We were particularly perturbed that Mr Sukhbir Singh told us he had never turned away an intoxicated person from the store. It is almost certain that every bottle store in New Zealand has intoxicated persons presenting themselves and attempting to purchase alcohol from time to time. For that reason, we also rescind his Temporary Manager appointment from the date of this decision.
26. Our decision to refuse a Certificate is not finite. Mr Singh is otherwise a meritorious candidate and a fresh application in a year or two once he has improved his communication skills and industry knowledge might find favour with the DLC.

## **DECISION**

27. The Far North District Licensing Committee, acting pursuant to Section 221 of the Act, refuses an application by Sukhbir Singh for a Manager's Certificate at this time.

**DATED** at Kaikohe this 16<sup>th</sup> day of February 2024



Murray Clearwater

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<sup>1</sup> Lim [2005] NZLLA PH 887/205

Chairperson/Commissioner  
Far North District Licensing Committee

