

Decision No. PH 1332/2009

**IN THE MATTER**

of the Sale of Liquor Act 1989

**AND**

**IN THE MATTER**

of an application by **SALLY MERRAN HARMER** pursuant to s.118 of the Act for a General Manager's Certificate

**BEFORE THE LIQUOR LICENSING AUTHORITY**

Chairman: District Court Judge E W Unwin

Member: Dr J Horn

**HEARING** at QUEENSTOWN on 18 November 2009

**APPEARANCES**

Mr N B Horn – agent for applicant

Mr L Webster – Queenstown-Lakes District Licensing Agency Inspector – to assist

Sergeant K P Newell – NZ Police – in opposition

**ORAL DECISION OF THE AUTHORITY**

[1] This is an application by Sally Merran Harmer for a General Manager's Certificate. The only issue under the criteria set out in s.121 of the Act is Ms Harmer's character and reputation.

[2] Ms Harmer has been working at her current place of employment since July of this year. Her application to be the holder of a certificate was sponsored by her employer and the employer has seen fit to appear before us in full support of the application. The evidence from the employer is that the applicant is trustworthy and in her opinion capable of being the holder of the certificate.

[3] Ms Harmer arrived in this country in June of last year. She is currently the holder of a Work Permit which is due to expire on 3 July 2010. Ms Harmer has given an undertaking that if granted a certificate it will only be used until that date, unless her ability to continue working in this country is extended by Immigration New Zealand.

[4] The application drew an adverse report based on an incident which occurred in April of this year for which Ms Harmer received diversion in the District Court. The allegation was that Ms Harmer was working in another unrelated business. It is clear that she had a gambling problem at the time. She took money said to be in excess of \$1,000 with the intention of returning it, but it was gambled and lost. Ms Harmer was subsequently charged with theft by a person in a special relationship. The money was repaid and she was taken before the District Court and granted diversion.

[5] The policy about diversion is:

- (a) It is necessary for people to acknowledge guilt before the privilege of diversion can be granted; and
- (b) That a person is given a second chance; and
- (c) There is no conviction recorded against the person.

As Mr Horn has correctly pointed out that means that there are no relevant convictions. It is also fair to point out that there were no liquor abuse issues involved. However, the charge itself is serious because it involves a significant breach of trust.

[6] It has been our policy that where people have received diversion we would expect them to see out a period of approximately 12 months for an isolated event, thereby showing that they have learnt from the experience, and are able to apply that knowledge in a more pro-social way. Ms Harmer has two other positive attributes. As a result of the incident she took counselling for a gambling problem. The report that has been produced is very positive and recommends the grant of the application. The second attribute was the support she has from her current employer who appeared before us.

[7] Ms Harmer is fortunate that an application was made for her to be appointed as a temporary manager and it was granted. The application would normally have been declined but the report opposing the application was not received in sufficient time for the Authority to prevent the appointment from proceeding. Ms Harmer has therefore had the advantage of controlling premises on her own.

[8] In all those circumstances we are satisfied that a grant is appropriate but not yet. We believe that Ms Harmer should be treated no differently from any other person in a similar situation. Subject to the undertaking that has been given, we propose to adjourn this application for a period of six months. This enables the applicant to see out a period of 12 months, incident free. If that proves to be the case and the reports are positive after that period of time, then we will propose to grant the application on the papers without any further public hearing. But if on the other hand other issues are raised then a further hearing may be necessary.

[9] The application is adjourned accordingly.

**DATED** at WELLINGTON this 3<sup>RD</sup> day of December 2009

B M Holmes  
Deputy Secretary