

Decision Number 60D [2016] 2116

IN THE MATTER

of the Sale and Supply of Alcohol
Act 2012

AND

IN THE MATTER

of an application Gaetan Giles
Chapon for a Manager's
Certificate pursuant to s.212 and
221 of the Act.

BEFORE THE CHRISTCHURCH DISTRICT LICENSING COMMITTEE:

Chairman : Mr G B Buchanan
Members: Mr A J Lawn
Mr P Rogers

Hearing at The Christchurch City Council Chambers, CHRISTCHURCH on the 25th day of
August 2016.

APPEARANCES

Mr M Ferguson; Christchurch City Council Licensing Inspector
Senior Constable G Kyne for NZ Police

Mr Gaetan Giles Chapon

Introduction

1. Mr Chapon works at Formaggio's Restaurant, a licensed premise in Christchurch. His hours of work vary during the day and over the weekends. He has been employed here for six months. His employers have encouraged him to obtain his Manager's Certificate to enable him to fulfill all of his responsibilities.
2. Mr Chapon was convicted on 26 February 2016 in the Christchurch District Court for driving with excess blood alcohol.
3. The Police and the Licensing Inspector oppose this application for a Manager's Certificate. They sought a hearing by the Committee to determine the matter.

The Applicant

4. Mr Chapon is a 30-year-old, who has been living in New Zealand since his arrival on 4 November 2015. He arrived on a 2 year working holiday visa.

5. On the 23rd of December 2015, Mr Chapon was apprehended for careless driving and driving with excess blood alcohol. He was subsequently convicted of these offences in the Christchurch District Court.
6. Mr Chapon has some experience in the Restaurant industry, working for a short time in Australia before he came to New Zealand. He has studied business and marketing in France.
7. Mr Chapon had been employed for a short time at the Tutto Bene Restaurant when the owner of this restaurant asked him to manage his new Formaggio's Restaurant in Sydenham, Christchurch.
8. The committee noted the support that he had from his employer, Mr Begley who was present at the hearing and advocated strongly on his behalf.

Decision

9. As a guide for this committee and in order to ensure only suitable applicants are approved a Manager's Certificate, Judge Gatley has given some guidance in matters where the applicant has previous convictions. (*G L Osbourne LLA 2388/95*)

... it may be helpful if we indicate that we commonly look for a five year period free of any serious conviction or any conviction relating to or involving the abuse of alcohol, or arising in the course of an applicant's duty on licensed premises."

10. This case has set the standard in relation to applicants for a Manager's Certificate. It remains important that we maintain consistency in our approach in this regard.

Deejay Enterprises Limited LLA 531-532/97 it was stated:

"The guiding hand or hands-on operator of any company or the potential holder of a General Manager's Certificate now receive greater scrutiny from both the Police and other reporting agencies. Character and reputation are closely examined. The law and human desires of patrons frequently tug in different directions. The Police cannot be everywhere. Little but 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 Manager's Certificates who control and manage licensed premises."

11. Mr Chapon has the support of his employer which speaks volumes to this committee of the potential that they see in him.
12. The standard of supervision that must be maintained in the alcohol industry is deliberately set high. While Mr Chapon may have learnt his lesson from his earlier actions, we need to ensure that he has. That is why a stand down period of 2 years is considered suitable in such cases.

13. We have been presented with no compelling reason to depart from this principle.

14. Mr Chapon presented as a sincere applicant. He is obviously highly valued by his employer. If after the period of 12 months from the date of his last conviction Mr Chapon was required to act as Temporary Manager at Formaggio's Restaurant on a small number of occasions, we would likely support such action. This would assist him in gaining a greater understanding of the duties and responsibilities required of a Manager .

Conclusion

15. For the reasons I have outlined, the committee declines this application for a Manager's Certificate.

A handwritten signature in blue ink, appearing to read 'G. Buchanan', with a long, sweeping underline.

Mr G Buchanan
Chairman