

Decision No. 60B [2017] 2674

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012.

AND

IN THE MATTER

of a Notice of Management Change by **New York Deli, Christchurch** pursuant to s. 231 of the Act.

DECISION OF THE CHRISTCHURCH DISTRICT LICENSING COMMITTEE

Chairperson: **Mr P R Rogers**

Members: **Messrs A Lawn and R Wilson JP**

Decision: **26 October 2017.**

[1] This is a Decision concerning a Notice of Management Change by New York Deli, Christchurch advising the appointment of Shontae Johnson as an Acting Manager pursuant to s. 231 of the Act. The Notice of Management Change (NMC) recorded the effective dates of this appointment as being from the 24th October 2017 until the 5th December 2017.

[2] The Police have lodged an opposition to the NMC; firstly the on the grounds the appointment is for six weeks which is greater than the period allowed under section 230(1) (a) of the Act and secondly on the grounds that Ms Johnson is less than 20 years of age, the age required under s.216(1) of the Act before a person may be appointed as a manager.

[3] The Committee agrees with the Police submission that, while section 231 does not specify a qualifying age, it is implicit in 231(2) which states that an acting manager be “deemed to be the holder of a manager’s certificate”. The Committee takes the view that the legislature intended that the proposed acting manager be qualified to be a manager in other respects without actually holding a manager’s certificate, that is in terms of age and suitability. This interpretation is strengthened by a reading of section 229 Temporary Manager, which also does not mention a qualifying age but which requires the appointee within two days to apply for a managers certificate. Clearly the appointee cannot do that unless he or she is over 20 years of age.

[4] With reference to the length of time an Acting Manager can be appointed under s. 230(1), The Committee is of the view that 230(1)(b) does not allow a continuous period of six weeks and that the reference to *periods not exceeding an aggregate of 6 weeks* in each 12 month period to enable a manager to have a vacation or annual leave is to prevent what could be called “book ending” of three week periods. The Committee notes the use of the term periods and aggregate in reaching this conclusion.

[5] For the above reasons the Committee does not approve the appointment of Shontae Johnson as a Temporary Manager, pursuant to s. 231(4).

[6] Pursuant to s. 231(5) and on receipt of this notice the licensee must terminate the appointment with effect from a date not later than 5 working days after the date of the notice.

DATED this 26th day of October 2017.

A handwritten signature in blue ink, appearing to read "M. Rogers", is written over a light blue rectangular background.

Chairperson
Christchurch District Licensing Committee