

IN THE MATTER OF

A complaint under s 74 of The Private Security Personnel and Private Investigators Act 2010 against **SIMON CAPENERHURST**

DECISION

[1] The Police filed a complaint against Simon Capenerhurst as they consider he is guilty of misconduct or unsatisfactory conduct by assaulting a patron while working as a security guard.

[2] Mr Capenerhurst accepts he did not conduct himself properly but disputes some aspects of the police version of events. He says he has learnt from his mistakes and that he should be able to retain his COA.

[3] The issues I therefore need to decide are:

- Did Mr Capenerhurst actions amount to misconduct or unsatisfactory conduct?
- If so, does this affect his suitability to be a security worker, or should some other penalty be imposed?

Did Mr Capenerhurst's actions amount to misconduct or unsatisfactory conduct

[4] In their initial complaint the police outlined concerns about Mr Capenerhurst's actions prior to the alleged assault as well as allegations about using steroids and testosterone. Mr Capenerhurst satisfactorily addressed these issues in submissions made prior to the hearing and the police are no longer pursuing these aspects of the complaint.

[5] The police however say that Mr Capenerhurst together with another security guard aggressively removed a drunk patron from the bar where they were working at around 2.30am on 23 May. They then threw him onto the footpath and the patron hit his head on a pole. Mr Capenerhurst then dropped his knee onto the patron's chest while he was lying on the ground.

[6] The police also say that Mr Capenerhurst remained in an elevated state and was aggressive and verbally abusive towards the police and the patron.

[7] Mr Capenerhurst advises the patron was drunk and threatening other patrons and so was asked to leave. When they were walking him about of the bar the patron resisted and tried to grab the other security guard involved, by the throat. In the tussle that ensued both the other security guard and the patron fell to the ground. Mr Capenerhurst accepts he dropped his knee onto the patron's chest while he was lying on the ground, but this was because he still had his hands around his friend's throat. While Mr Capenerhurst accepts his conduct was not appropriate, he says he only acted to defend his friend.

[8] Mr Capenerhurst accepts he was full of adrenaline afterwards because of what the patron had done to Mr Goad and was loud and aggressive towards the police insisting that the patron needed to be dealt with.

[9] I accept that Mr Capenerhurst's actions in kneeing the patron in the chest were motivated by a desire to defend Mr Goad. However, he used excessive force and an unnecessary level of aggression when dealing with the patron and in his subsequent

interactions with the police. Mr Capenerhurst did not implement appropriate de-escalation techniques at any time during his interaction with the patron. In addition, his adrenaline fuelled aggression after the events, while to some extent explainable, was not acceptable for a person who has worked in security for as long as Mr Capenerhurst.

[10] Mr Capenerhurst's conduct fell short of the standard a reasonable member of the public is entitled to expect from a reasonably competent security guard and therefore amounts to unsatisfactory conduct. I do not however consider it reached the higher threshold required for misconduct.

What is the appropriate penalty?

[11] The effect of s 81(1A) of the Act is that a finding of unsatisfactory conduct cannot result in the suspension or cancellation of Mr Capenerhurst's certificate of approval. The disciplinary options when misconduct is proved are to:

- order further training
- order the certificate holder to work under supervision or work subject to conditions
- reprimand the certificate holder
- order the certificate holder apologise to the complainant.

[12] For the reasons discussed at the hearing I consider the appropriate penalty for Mr Capenerhurst unsatisfactory conduct is a reprimand and to order Mr Capenerhurst undertake further training on de-escalation and removal techniques and controlling emotions when dealing with volatile people.

[13] As no firm dates for such training are set in the region where Mr Capenerhurst lives, the only timeframe I put around the training is that it is to be completed before Mr Capenerhurst applies for renewal of his current certificate. However, I would encourage Mr Capenerhurst to complete the training at the first available opportunity.

Summary and Orders

[14] I conclude that Mr Capenerhurst is guilty of unsatisfactory conduct by his actions on 23 May 2022. I accordingly make the following orders:

- Mr Capenerhurst is formally reprimanded
- Mr Capenerhurst is to undertake advanced training on removal of people and de-escalation techniques as well as controlling emotions when dealing with volatile people.

DATED at Wellington this 28th day of October 2022



The image shows a handwritten signature in blue ink over a horizontal line. To the right of the signature is a circular official seal. The seal features a central crest with a crown and two figures, surrounded by the text 'THE PRIVATE SECURITY PERSONNEL LICENSING AUTHORITY'.

P A McConnell

Private Security Personnel Licensing Authority