

[2017] NZSHD 5
SHD Number 17-044001

IN THE MATTER OF

the Secondhand Dealers and
Pawnbrokers Act 2004

AND

IN THE MATTER OF

opposition to the granting of a
application for a license filed by
RICHARD ALLEN KEENAN

**BEFORE THE LICENSING AUTHORITY OF
SECONDHAND DEALERS AND PAWNBROKERS**

HEARING at Wellington on 5 October 2017

APPEARANCES

R A Keenan - Applicant for a licence
Detective R J Cusin - NZ Police

DECISION

[1] Mr Keenan has filed an application with the Licensing Authority of Secondhand Dealers and Pawnbrokers for an individual licence under s 8 of the Secondhand Dealers and Pawnbrokers Act 2004 (the Act). The Police oppose granting Mr Keenan's licence as he has convictions for theft, burglary and receiving.

[2] Section 9 of the Act provides that the Authority can only issue a licence to an individual if the applicant is eligible to hold a certificate. Section 22 of the Act provides that a person is disqualified from holding a certificate if they have been convicted of a specified offence within the past five years. Burglary, theft and receiving all fit within the category of specified offence. However Mr Keenan's convictions were all over 12 years ago and therefore not grounds for disqualification. Mr Keenan has more recent convictions for drunk driving, dangerous driving and failing to stop or ascertain injury. The most recent of these were in August 2017 when Mr Keenan was sentenced to nine months supervision, five months community detention and disqualified from driving for one year.

[3] Section 25 of the Act provides that the Police can object to an application for a licence on the grounds that the applicant is not a fit and proper person to hold a certificate. The issue I therefore need to decide is whether Mr Keenan's convictions, whilst not disqualifying him from holding a certificate, are sufficient to establish he is not a fit and proper person to hold a certificate

[4] In making this decision the purpose of the Act as set out in s 3 is a key consideration. The Authority has generally taken the view that an example of a fit and proper person under

the Act is someone who can be trusted to comply with his or her obligations as a secondhand dealer and pawnbroker under Part 3 of the Act. In particular it requires the applicant to be aware of the need to be vigilant and to use his best endeavours to ensure stolen goods do not pass through his business. On the other hand a person who encourages the transit of stolen property through his business or who turns a blind eye when stolen property is offered to him is clearly not a fit and proper person.

[5] Mr Keenan advised that his second hand trading is a part time activity rather than a full time job. However he has got to the point that he sells more than \$2000 worth of goods a year and therefore realises he needs to get a licence to continue to trade. At the hearing Mr Keenan demonstrated an awareness of his obligations under the Act, should he be granted a licence, and appeared to be motivated to do the right thing so that he could trade legitimately.

[6] Mr Keenan also advised that his dishonesty convictions arose after he returned from Australia and got caught up with a bad group of friends and started using P. He however stopped using P several years ago and no longer associates with other P users. Mr Keenan accepts he has a problem with alcohol but after his latest offending realised he needed to get his life back on track. He voluntarily sought counselling from the Salvation Army and is participating in other courses as part of his supervision sentence.

[7] While I accept the concerns raised by the police are reasonable, based on the evidence before me I am satisfied that Mr Keenan will comply with his obligations under the Act and will use his best endeavours to ensure stolen property does not pass through his business.

Conclusion

[8] I therefore conclude that Mr Keenan is a fit and proper person to hold a certificate. His application for an individual licence is therefore granted. The application is however granted on the condition that If Mr Keenan incurs any further convictions for offences of dishonesty or drink driving the Police can immediately apply to cancel his licence.

DATED at Wellington this 6th day of October 2017

P A McConnell
Licensing Authority of Secondhand Dealers and Pawnbrokers