

[2015] NZSHD 8

SHD Number 15 / 023953

IN THE MATTER

of the Secondhand Dealers and
Pawnbrokers Act 2004

AND IN THE MATTER

of an application by **REECE
WELLS** of Nelson for a waiver of
disqualification under s.23 of the
Act

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

DECISION

The Application

[1] This is an application by Reece Wells (“the applicant”) for a Waiver from disqualification pursuant to s.23 of the Secondhand Dealers and Pawnbrokers Act (“the Act”).

[2] Section 23(1) of the Act provides that the Licensing Authority of Secondhand Dealers and Pawnbrokers (“the Authority”) may waive disqualification if application is made in writing, any prescribed fee is paid, the disqualification does not result from conviction for a specified offence and the Licencing Authority is satisfied on the basis of the written material in front of him or her, that there are special reasons why the person should not be disqualified from holding a certificate.

[3] Section 23(2) provides that a person seeking a Waiver of disqualification may do so only in connection with an application for a certificate or licence, or an application for a renewal of a certificate or licence, or in connection with the cancellation or suspension of a certificate or the cancellation of a licence.

[4] The applicant applied for a certificate on 29 June 2015. During the investigations in connection with the application, it was found that the applicant had been sentenced to imprisonment in August 2011. He was therefore disqualified from holding a certificate pursuant to s.22(e) of the Act.

[5] The applicant was subsequently advised that he was entitled to apply for a Waiver of his disqualification pursuant to s.23 of the Act.

[6] On 20 July 2015 the applicant filed a formal application for a Waiver of his disqualification with the Authority. It was accompanied by a document which was prepared by the applicant. The document is headed up “Affidavit” and is signed by

the applicant and witnessed by the Watchhouse Keeper at the Richmond Police Station.

[7] The applicant's statement makes it clear that he made a silly youthful mistake four years ago by not attending properly to his Community Work commitments. He paid the price and served two weeks in the Youth Unit. He says this taught him a valuable lesson. He points out he has no further convictions since then.

[8] The applicant points out also that he has been gainfully employed by his current employer for the last four years and needs a certificate to properly carry out his duties. He says that his manager and the owner of the business support his application and will speak well of him.

[9] When contacted by the Authority the owner of the business confirmed in writing that the applicant had been working there for four years, was honest and reliable and was an important team member. She says that he cannot progress any further in the business without a certificate.

[10] Similarly, the applicant's manager described him in writing as reliable, honest and hard working. She said he was recently given a pay rise for his dedication and commitment. If he is able to obtain a certificate this will allow him to gain further experience and be part of the firm's buying team.

Discussion

[11] the applicant was sentenced to one month in prison four years ago for Breach of Community Work. This type of disqualification under s.22(e) of the Act endures for a period of five years from the date of the conviction. A year from now the applicant will no longer be disqualified.

[12] The conviction resulting in imprisonment in 2011 was at the lower end of the scale, and was not for dishonestly or violence for example. The applicant was 19 at the time when he breached his Community Work. He has paid a high price. He has no convictions since 2011. On the contrary he has obtained a good job and remained with it for four years. He has progressed within the business and is spoken of highly by his manager and the owner of the business. He is now aged 23.

[13] In the circumstances the Authority is satisfied on the basis of the written material received from the applicant, from his manager and from the owner of the business where he works, that there are special reasons why he should not be disqualified from holding a certificate.

Decision

[14] The application for a Waiver is granted.

DATED at Auckland this 6th day of August 2015

S L Cole

Licensing Authority of Secondhand Dealers and Pawnbrokers