

[2015] NZSHD 3

LASDP Number: 15 / 021899

IN THE MATTER

of the Secondhand Dealers and
Pawnbrokers Act 2004

AND

IN THE MATTER

of an application for a Certificate
of Approval by **B (name
suppressed)** of Napier

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

DECISION

Introduction

[1] On 10 April 2015 Ms B of Napier (“the applicant”) applied to the Licensing Authority of Secondhand Dealers and Pawnbrokers (“the Authority”) for a certificate of approval (“certificate”) to be issued to her under the Secondhand Dealers and Pawnbrokers Act 2004 (“the Act”).

[2] Because the applicant has been convicted of certain “*specified offences*” within the past five years however, the Authority is precluded by law from issuing a certificate to the applicant and her application must be refused.

Statutory provisions

[3] Section 19 of the Act requires that every person who, with the authority of a licensed secondhand dealer, enters into a transaction on behalf of the dealer or, with the authority of a licensed pawnbroker, issues a pledge ticket on behalf of the pawnbroker, and every person who manages controls or supervises such a person must hold a certificate. A certificate is defined in s.4 of the Act as a certificate of approval issued under s.28.

[4] Section 28(1)(a) of the Act provides that a person is eligible to hold a certificate if the person is not disqualified under s.22 from holding a certificate, or if disqualified, the disqualification has been waived by the Authority under s.23 of the Act.

[5] Section 22(a) to (h) of the Act sets out the various grounds upon which a person is deemed to be disqualified from holding a certificate under the Act.

[6] Under s.22(a) of the Act in particular, a person is disqualified from holding a certificate if that person has been convicted of a ‘*specified offence*’ within the past five years.

[7] A '*specified offence*' is defined in s.4 of the Act as an offence under sections 217 to 265 of the Crimes Act 1961 (which relate to crimes against rights of property), or an offence under the Fair Trading Act 1986.

[8] Section 23 of the Act gives the Authority discretion to waive a disqualification from holding a certificate resulting from one or more of the grounds for disqualification as set out in s.22(b) to (h) of the Act, but not for a disqualification resulting from a conviction for a '*specified offence*' under s.22(a).

Discussion

[9] The Authority has completed a check on this application pursuant to sections 21(3) and 24 of the Act.

[10] These checks reveal that the applicant was convicted of ten '*specified offences*' within the past five years (in 2011 and 2013), namely six convictions for Theft, three convictions for Dishonestly Accessing a Computer and one conviction for Receiving Property under the relevant sections of the Crimes Act 1961.

[11] The Authority is satisfied that the applicant Ms B is the same Ms B who was convicted of the ten Crimes Act 1961 charges in 2011 and 2013. The full name, the date of birth and the driver licence number of the convicted person are identical with details supplied by the applicant in her application.

[12] By virtue of being convicted of the ten '*specified offences*' the applicant is disqualified from holding a certificate for a period of five years from the dates of the convictions pursuant to s.22(a) of the Act.

[13] Because the disqualification results from '*specified offences*' the Authority has no power to waive the disqualification under s.23 of the Act.

[14] The applicant is therefore ineligible to hold a certificate under s.28 of the Act and her application for a certificate must be refused.

Decision

[15] The application by Ms B for a certificate is REFUSED.

DATED at AUCKLAND this 14th day of April 2015

S L Cole

Authority of Secondhand Dealers and Pawnbrokers

Addendum: The applicant's details are suppressed because it is not in the public interest that they be published. The applicant was likely unaware at the time she made her application that not only was she precluded by law from obtaining a certificate of approval because of her recent previous convictions, but also that those convictions would necessarily be referred to by the Authority in his written decision as the reasons the application must be refused. The applicant's details may however be supplied to the New Zealand Police.