

Emma Jane McDonald, you have been found guilty by a jury of one count of fraud. It follows from that verdict that the jury was satisfied beyond reasonable doubt that on 17 January 2020, you called Aurora Energy by telephone and represented that you were Nicholas Denholm. You requested that the power be connected to your home in his name in circumstances where he had no knowledge that this was happening and had not given permission for this to be done. This was the only version of events put before the jury. They must have accepted that the circumstances as outlined by the State had been proved beyond reasonable doubt. It falls to me to make relevant findings of fact in relation to this offence. I make the following findings beyond reasonable doubt.

This was a circumstantial case. There was evidence a person called Aurora on 17 January 2020 and purported to be Nicholas James Denholm. They provided a driver licence number and a date of birth that was the same as Mr Denholm's. A phone number was also provided that was not Mr Denholm's. The caller indicated that they had not had an Aurora account before. They were advised that Mr Denholm had in fact previously held an account. Mr Denholm gave evidence during the trial that he did not make the phone call himself. He also gave evidence that he never lived at the address to which the power was connected and did not pay bills for that address. He also never had mail sent there. His evidence about this was not challenged. You, however, lived at the address with your son and his girlfriend and her young child. You had known Mr Denholm for a number of years. He gave evidence that his driver licence was often in console of his car which you had travelled in on a number of occasions.

You were later romantically involved with Mr Denholm for a period of about a month in 2022. During that period, Mr Denholm was visiting your house and found a letter on the floor of your bedroom addressed to him at your address. It had been opened and looked like it had fallen from the desk area in your room. It was dated 27 July 2022 and was from Aurora Energy notifying that an amount of \$5,515.06 remained overdue on the energy account relating to your address. He gave evidence that he knew nothing about the power being connected to your address in his name. He asked you about the letter a day or so later and, more particularly, asked "What's a power bill doing in my name?" You told him that you had been meaning to talk to him about that. The two of you had a discussion and you told him you would make an effort to pay it off. Mr Denholm contacted police shortly after.

Apart from the initial phone call made to Aurora to cause the power to be connected in Mr Denholm's name, there were a number of other calls made by and to Aurora regarding the unpaid account. No payments were ever made on the account. There was evidence of letters being sent to your address notifying of the overdue amounts. Aurora also phoned the number they had been provided to discuss the outstanding amount in September 2020. The person who answered the phone told the caller that Mr Denholm was not home but would be home the next day. A payment plan was entered into in shortly after that phone call. That payment plan was not adhered too. There were a series of phone calls in July 2021. A person purporting to be Mr Denholm entered into another payment plan. That payment plan was also not adhered to. In January 2023, and shortly following Aurora attempting to speak with Mr Denholm by phone, you rang Aurora and sought to have power connected to the address in your own name. On each occasion that Aurora made calls to the number they had been provided, Mr Denholm did not answer the phone.

I am satisfied beyond reasonable doubt that you were the person who made phone calls to Aurora in relation to the account and purported to be Mr Denholm on each occasion. There were similarities in phrases used during the phone call you made on your own behalf and those made by the person purporting to be Mr Denholm. The person purporting to be Mr Denholm was familiar with recent changes to the numbering of the houses in the street you were living in which affected the way in which your home was identified, changes you referred to yourself in your own contact with Aurora. A female who sounded like you answered the phone on occasions when Aurora called attempting to speak with Mr Denholm. Your own contact with Aurora in January 2023 immediately followed calls with the person purporting to be Mr Denholm. You represented during your own call to Aurora that you were just moving into the house in circumstances where that was not the case.

As a consequence of your fraud, you succeeded in having the power connected to your home. You obtained energy services over the entire period the account was in Mr Denholm's name in the sum of \$7,375.36. This amount has not been paid to Aurora.

You have an extensive history of dishonesty commencing when you were 16 years old. You have regularly appeared in the Magistrates Court and been sentenced for offences such as stealing, burglary, making off without payment, aggravated burglary, receiving, dishonestly obtaining a financial advantage, obtaining goods by false pretences, forgery, uttering, unlawful possession of property, and other offending of a dishonest nature. In 1999, you were sentenced on three occasions by this Court in respect of dishonesty offences. In February 1999, you were sentenced to six months' imprisonment which was wholly suspended on your plea of guilty to a charge of receiving stolen property worth \$15,000. In March 1999, you received a nine month wholly suspended sentence of imprisonment on your plea of guilty to two counts of aggravated burglary and two counts of stealing. In November 1999, you were found guilty of aiding another person in the commission of the crime of attempted aggravated armed robbery. You were sentenced to 15 months' imprisonment, with six months of that term suspended on condition that you be of good behaviour. In February 2000, you were also sentenced in this Court on your plea of guilty to a charge of obtaining goods by false pretences and one count of personation. A one month period of imprisonment was imposed, cumulative to the period of imprisonment you were then serving.

Your offending is largely associated with your drug use. You have been the subject of drug treatment orders on two occasions. In September 2007, a drug treatment order was made in respect of numerous dishonesty and driving offences. A custodial part of 20 months' imprisonment was imposed. That drug treatment order was cancelled following your successful completion of the treatment part of the order. A further drug treatment order was made in 2019 with a custodial part of six months. Again, that related to a number of dishonesty and drug matters. That order was still in force when you committed this offence in January 2020. In June 2020 you were resentenced in respect of the offences that gave rise to the drug treatment order to a short period of imprisonment. In 2023, you were sentenced to four months' imprisonment for breaching a suspended sentence and some new offending.

You have spent no time in custody in respect of this offence. I sought a pre-sentence report from Community Corrections to explore the sentencing options that may be available in this case and provide me more information about you. You are 47 years old. You have given birth to nine children, one of whom is now deceased. You have reported that your own family of origin was stable and supportive, with no reported substance abuse or family violence in the home. Unfortunately, your own intimate relationships have been marred by significant family

violence. You have a long history of drug abuse. You started using cannabis as a young teenager. You commenced using methylamphetamine at 19. At the height of your use, you reported using a gram of cannabis and up to 10 points of methylamphetamine intravenously per day. You have reported periods of abstinence throughout your life attributable to imprisonment, pregnancy and during the periods you have been the subject of drug treatment orders. You have ongoing engagement with alcohol and drug counsellors through an outreach program facilitated by the Salvation Army. You have previously had admissions to their residential rehabilitation program. Your engagement and commitment with these programs have been noted as positive.

Most recently, you successfully completed the Bridge Program in August 2025. You have had two disclosed instances of using methylamphetamine since then. These occurred shortly following completion of the program. You could not identify a direct trigger for these relapses but have told Community Corrections that stress may have been a factor. As to your offending on this occasion, you told Community Corrections that you were unable to obtain a power connection in your own name as you had a significant debt to Aurora. You told Community Corrections you were experiencing a number of other external stressors including a relationship breakdown, poor mental health, and childcare responsibilities.

Community Corrections note that the drug treatment order imposed in 2019 was cancelled in 2020 due to your poor compliance. You did, however, successfully complete the program following the sentence in 2007 with commendable reports. Generally, Community Corrections case notes indicate you demonstrate a positive attitude during your engagement with them, though compliance issues have presented on occasions due to your psychosocial stressors.

I requested that you be assessed for suitability for a home detention order and other community based orders. Community Corrections have deemed you suitable for a home detention order. You have a place to live that is appropriate for that purpose. You are unsuitable for the imposition of community service due to some ongoing health considerations and mental health concerns. You are, however, considered suitable for community based supervision given your high risk and needs. If such order was made, Community Corrections have indicated their case management would focus on supporting you to remain abstinent from illicit substances.

You have a terrible history of dishonest offending. You have previously been the subject of suspended sentences and community based orders with mixed results. Given the clear link between your offending conduct and history of drug abuse, in my view, your recent successful engagement with a residential drug rehabilitation program ought not be undone by the imposition of a period of immediate imprisonment. I consider that a home detention order is appropriate in all the circumstances of the case. The order I intend to make will see you confined to your residence except for limited purposes approved by Community Corrections. I consider this will have a significant deterrent effect upon you but will also enable you to continue to engage with rehabilitation services and reduce the risk of future relapses into drug use and consequent offending.

Emma Jane McDonald, you are convicted of the charge of fraud on the indictment. I impose a home detention order with an operational period of 4 months to commence from today. That order is subject to a number of core conditions which are set out in s 42AD(1) of the *Sentencing Act* and will be provided to you in writing. Those conditions include that during the operational period of the order, you must not commit an offence that is punishable by imprisonment and you must reside at the home detention premises namely **address*** and be at those premises

at all times unless approved by a probation officer. You will also be subject to electronic monitoring during the course of that order. Sections 42AD(4) and (5) of the *Sentencing Act* apply as a consequence. In addition, your home detention order will be subject to the following special conditions:

- You must attend the Community Corrections Office at 75 Liverpool Street, Hobart for induction on this order immediately upon your release from Court.
- During the operational period of the order:
 - you must maintain in operational condition an active mobile phone service, provide the contact details to Community Corrections and be accessible for contact through this device at all times;
 - you must submit to the supervision of a Community Corrections officer as required by that officer;
 - you must not take any illicit or prohibited substances. Prohibited and illicit substances include:
 - (a) any controlled drug as defined by the *Misuse Use of Drugs Act 2001*;
 - (b) any medication containing an opioid, benzodiazepine, bupropion, hydrochloride or pseudoephedrine, unless you provide written evidence from your medical professional that you have been prescribed the relevant medication;
 - you must not consume alcohol, and you must, if you have been directed to do so by a police officer or a Community Corrections officer, submit to a breath test, urine test or any other test for the presence of alcohol;
 - you must not enter upon or remain upon any licensed premises (excluding cafes, theatres, cinemas and ten-pin bowling venues) as directed by a probation officer;
 - you must undergo assessment and treatment for drug dependency as directed by a probation officer;
 - you must submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer;

Ms McDonald, you need to be very clear that if you breach any of those conditions including by committing another offence punishable by imprisonment, the order would be referred to me for review, and I may extend or revoke the order and resentence you.

Finally, I make a compensation order pursuant to s 68(1) of the *Sentencing Act* in favour of Aurora Energy Pty Ltd in the amount of \$7,375.36.