



Neutral citation number: [2024] UKFTT 1004 (GRC)

Case Reference: FT/D/2024/0522

**FIRST-TIER TRIBUNAL  
GENERAL REGULATORY CHAMBER  
(TRANSPORT)**

**Heard by Cloud Video Platform  
On: 28 October 2024**

**Decision given on: 08 November 2024**

**Before**

**JUDGE DAMIEN MCMAHON**

**Between**

**SYED IMAD AHMED**

Appellant

**-and-**

**REGISTRAR OF APPROVED DRIVING INSTRUCTORS**

Respondent

**Representation:**

For the Appellant: The Appellant appeared on his own behalf.

For the Respondent: No appearance.

**Decision:**

The appeal is Allowed. The Decision of the Respondent made on 6 June 2024 is set aside.

**REASONS**

*Mode of Hearing*

1. This appeal was listed for remote oral hearing by CVP on 28 October 2024. The Appellant attended and gave oral evidence and made oral submissions. No

representative appeared for the Respondent. The Tribunal decided to proceed and determine this appeal in the absence of a representative for the Respondent. In doing so, the Tribunal was satisfied that this complied with the overriding objective in Rule 2 of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Tribunal) Rules 2009, as amended ('the Rules'), and with Rule 36, in that the Tribunal was satisfied that the Respondent had been notified of the hearing and that it was in the interests of justice to proceed with the hearing.

### *Decision under Appeal*

2. The Appellant appealed against a decision of the Respondent dated 6 June 2024 to refuse the Appellant's application for a second trainee driving instructor licence made on 13 May 2024, pursuant to s.129(4) of the Road Traffic Act 1988 ('the Act') on the stated grounds that the Appellant had not complied with the conditions of the first trainee licence issued to him for the period 2024, a period, the Respondent submitted, was more than adequate to enable him to gain practical experience to take a Part 3 test, namely, that his training objectives on completed Form ADI 21AT were not completed within the first three months of his first trainee licence. The Respondent submitted that, in making the decision under appeal, they took account of representations made by the Appellant on 15 May 2024 that he had to go to Bangladesh to attend his uncle's funeral; a need to spend time with his wife who had just given birth and that when he 'completed his validation training' in March 2024, he booked a Part 3 test but was put on hold until July 2024. The Respondent also maintained, in making their decision, that it was not the intention of Parliament that ADI candidates be issued trainee licences for however long it might take them to pass their Part 3 test and that the trainee licence system could not be allowed to become an alternative to registration as a fully-qualified ADI; that refusal of the Appellant's application did not prevent the Appellant undertaking a Part 3 test (subject to there being a maximum permitted number of attempts); that it was not necessary to hold a trainee licence to undertake a Part 3 test and that the Appellant's existing first trainee licence remained valid until determination of this appeal (as his application for a second trainee licence had been made before the expiry of his first trainee licence), providing him with a total trainee licence period of over 11 months.

### *Notice of Appeal*

3. The Appellant submitted a Notice of Appeal dated 13 June 2024 against the Respondent's said decision on the following grounds:
  - that his uncle had died in January 2024 requiring him to go to Bangladesh for three months for the funeral;
  - that this was a stressful and painful period as a result;
  - that this period also included the anniversary of the death of his father and his baby;
  - that these circumstances had an impact on his ability to focus and fully engage in training;

- that his wife was pregnant again following the loss of their baby, requiring him to support her throughout, causing him emotional strain;
- that he relied on holding a trainee licence to financially support his wife and three children, as this was his only source of income and refusal of his application for a second trainee licence would jeopardise his family's financial stability, the earnings he got from providing tuition under a trainee licence being essential to cover daily living expenses, housing costs and essential needs;
- that he could not make the most of his first trainee licence and gaining tuition experience as his wife was struggling with her physical and mental health that consumed his time and energy over the previous six months;
- that he wanted a second trainee licence to continue training and gain enough experience to pass his Part 3 test;

The Appellant furnished Birth and Death Certificates and aircraft travel tickets in support of some of these appeal assertions.

#### *Response of Respondent*

4. The Respondent, in its written Response, dated 29 July 2024, confirmed that the Appellant had never been on the Register of Approved Driving Instructors ('ADI Register') and that his application for a second trainee licence (having been issued with a trainee licence for the period 11 December 2023 to 12 June 2024) was refused because the Appellant did not comply with conditions of his first trainee licence in that he failed to complete his training within the first three months of his first trainee licence. However, the Respondent also submitted that the Appellant did not provide evidence as to his reason for travelling abroad [an assertion that was wrong on the written and oral evidence of the Appellant and rejected by the Tribunal], and that the Appellant would have been aware of the potential impact of having a baby before his first trainee licence was issued [an assertion that the Tribunal found utterly bizarre and was firmly rejected as a valid reason for the decision under appeal]. In addition, the Respondent submitted that the Appellant could obtain further training, if necessary, to prepare for his second attempt at a Part 3 test, by attending a training course or studying and practising under an ADI or providing unpaid driving tuition to pupils, all of which had been availed of over time by ADI candidates in preparation for taking a Part 3 test. The Respondent also stated that the Appellant had booked a second Part 3 test, on hold, awaiting a date [now to be taken on 17 December 2024]. Significantly, the said Response simply did not adequately address the implications, if any, of the assertions made by the Appellant that limited his ability to make most use of his existing trainee licence. The Tribunal found the Appellant to be credible, honest and trustworthy and had no hesitation in accepting his evidence, particularly on the balance of probabilities, in deciding to allow this appeal.

## *Appellant's Oral Evidence Reasoning*

5. In his oral evidence, the Appellant reiterated the pressures being experienced by him concerning his wife's new pregnancy having lost her previous baby. This extended to him relocating to London during the period of his first trainee licence to allow his wife to be close to her own family for further support, resulting in the Appellant having to familiarise himself with proving driving tuition in an unfamiliar area (that he felt contributed to his failing his first attempt at his Part 3 test). He had undertaken a fast-track training course with his trainer organisation (who provided him with a vehicle to gain tuition experience) just prior to commencement of his existing trainee licence and also availed of training videos. This showed commendable commitment on the part of the Appellant to preparing himself to pass his Part 3 test. The Appellant accepted that he did not need to hold a trainee licence to undertake a Part 3 test. The Appellant only had until March 2025 to pass his Part 3 test otherwise he would have to start the entire qualification process afresh. He tried to book his second attempt at a Part 3 test immediately following his failing his first attempt at a Part 3 test, but did not get an appointment date until 17 December 2024 – a considerable delay. The Appellant confirmed that he had contacted the Respondent to explain his difficulties in completing his training record within the first three months of the commencement of his first trainee licence – commendable again on his part. The Appellant confirmed that he had no intention of relying indefinitely on holding a trainee licence. The Appellant reiterated that, due to his particular circumstances, he had been unable to use his trainee licence to the utmost extent during the six-month period for which it was issued. The Tribunal rejected the Appellant's reason for challenging the decision under appeal insofar as it related to him depending on holding a trainee licence in order to generate and be a source of income: a trainee licence is not issued for such purposes and cannot be used for such purposes.

## *Decision of Tribunal*

6. This appeal concerned a decision of the Respondent to refuse the Appellant's application for a second ADI trainee licence. The powers of the Tribunal in determining this appeal are set out in s.131 of the Road Traffic Act 1988 ('the Act'). In determining the appeal, the Tribunal may make such order as it thinks fit, standing in the shoes of the Respondent, considering the decision afresh on the evidence available to it, giving appropriate weight to the Respondent's reasons. The burden of proof in satisfying the Tribunal that the Respondent's decision was wrong rests with the Appellant.
7. An appeal to this Tribunal against the Respondent's decision proceeds is an appeal by way of re-hearing, that is, the Tribunal makes a fresh decision on the evidence before it. The Tribunal must give such weight as it considers appropriate to the Respondent's reasons for its decision as the Respondent is the regulatory authority tasked by Parliament with making such decisions. The Tribunal does not conduct a procedural review of the Respondent's decision-making process.

8. In reaching my decision I have taken into account all of the evidence and submissions that I received, written and oral, and considered all of the circumstances relevant to this appeal.
9. Accordingly, the appeal is allowed.
10. The decision of the Respondent, made on 6 June 2024, is set aside. The Appellant is granted a second trainee licence with effect from the date of promulgation of this Decision.

Signed: *Damien McMahon*,

**Tribunal Judge**

**Date: 28 October 2024**