



Neutral citation: [2024] UKFTT 001022 (GRC)

**First-tier Tribunal
(General Regulatory Chamber)
Transport**

Appeal Number: FT/D/2024/0334

**Determined on the papers
On 11 October 2024**

Decision given on 14 November 2024

Before

JUDGE OF THE FIRST-TIER TRIBUNAL G WILSON

Between

BADER AL-BADRI

Appellant

and

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

DECISION

1. The appeal is dismissed.

REASONS

Background

2. The appellant appeals against the decision made by the Registrar of Approved Driving Instructors (the Registrar) on 12 April 2024 to refuse his application for a trainee licence.
3. The appellant was granted a trainee licence valid for a period of 6 months from 2 October 2023 until 1 April 2024. On 19 March 2024 the appellant applied for a second trainee licence.

4. On 25 March 2024 the respondent wrote to the appellant and advised that consideration was being given to refusing his application. He was invited to make representations within 14 days.
5. The appellant responded on 25 March 2024. The appellant submitted that he should not be refused another licence due to DVSA delays in part three tests. The Appellant accepted that he had been given a test date in May. The Appellant stated "I agree that I have sufficient experience to pass my last exam".
6. The respondent proceeded to refuse his application.

The respondent's decision

7. The respondent gave the following reasons for the decision made on 12 April 2024:
 - (i) Despite ample time and opportunity, the Appellant has not been able to reach the required standard for qualification as an Approved Driving Instructor
 - (ii) The appellant had been given an adequate period of time to gain sufficient experience to prepare for the final part of the approved driving instructor (ADI) qualifying exam.
 - (iii) It is not parliament's intention that candidates should be granted trainee licences for as long as it takes them to pass the qualifying examination.
 - (iv) Trainee licences must not be permitted to become an alternative to registration as a fully qualified ADI.
 - (v) It is not a requirement to have a trainee licence in order to sit the part 3 test.
8. In the respondent's response to the grounds of appeal, the Respondent submitted that the appellant had failed to comply with the conditions of his first licence. The Respondent submitted that the training objectives on the Appellant's ADI 21AT training record form were not completed within the first three months of the licence period as required.

The appellant's case

9. The appellant lodged a notice of appeal dated 15 April 2024.
10. In his grounds of appeal, the appellant states that he seeks a second trainee licence because whilst it is accepted that six months duration is enough time to

gain sufficient experience the appellant worked full-time in the NHS supporting vulnerable cancer patients. Accordingly, the appellant was only able to train as a driving instructor on weekends. The appellant submits that he has been disadvantaged by his full-time employment and as a consequence has only had 44 training days which equated to one and a half months. As such, the appellant had not been able to make full use of the six month licence having been afforded only a quarter of the training time compared to others who did not work full-time.

11. In his reply the appellant stated that he was refused the opportunity to provide further evidence regarding his full-time employment. That evidence has been produced to the tribunal in the form of payslips and has been considered.
12. In relation to the failure to complete the training objectives on the ADI 21AT training form within the first three months, the appellant submits that this had not been brought to his attention before. The appellant submits that he was not informed that he was in violation of training objectives. The appellant states this was not included in the original refusal of the licence application.

The appeal

13. The appellant elected to have his appeal determined on the papers without a hearing. There was no objection from the respondent and I considered that it was possible to properly determine the issues without a hearing.
14. In determining the appeal, I considered the following documents:
 - (i) the bundle prepared by the respondent (22 PDF pages)
 - (ii) the appellant's reply document dated 6 May 2024 (four PDF pages)
 - (iii) evidence of the appellant's employment comprising copy payslips (6 PDF pages)

The law

15. The circumstances in which a person may be granted a trainee licence are set out in section 129 of the Road Traffic Act 1998 (the Act) and the Motor Cars (Driving Instruction) Regulations 2005 (the Regulations).
16. Pursuant to regulation 3, the qualifying examination consists of three parts: a written examination (part 1); a driving ability and fitness test (part 2); and an instructional ability and fitness test (part 3).

17. A candidate is permitted three attempts at each part. The whole examination must be completed within two years of passing part 1, failing which the candidate must retake the whole examination. Once a candidate has passed part 2, they may be granted a trainee licence.
18. The purpose of the trainee licence is to enable a person to acquire practical experience in giving instruction in driving motor cars with a view to undergoing such part of the examination referred to in section 125(3)(a) as consists of a practical test of ability and fitness to instruct, which is part of the qualifying examination to become an Approved Driving Instructor (ADI).
19. The appellant has a right of appeal against the respondent's decision pursuant to section 131 of the Act. On appeal the tribunal may make such order as it thinks fit.
20. It is for the appellant to show on the balance of probabilities that the respondent's decision was wrong.

Findings and reasons

21. The respondent alleges that the appellant has breached his licence by failing to complete his training objectives in his ADI 21AT training record within the first three months of his licence. I do not accept the appellant's assertion that the respondent is prohibited from advancing their case upon this basis because the alleged licence breach was not included in the original refusal. The respondent has included the alleged breach within its response and the appellant has had an opportunity to respond. Accordingly, there is no issue of procedural fairness. The burden is on the appellant. The appellant has failed to bring forward a copy of his licence conditions showing that there was no such condition within his licence or that he had properly complied with the condition. The appellant asserts this was not brought to his attention before and he was not aware of this licence breach. It is for the appellant to ensure compliance with his licence conditions not for the respondent to monitor and inform the appellant where there is a breach or potential breach. Accordingly, I find that the appellant has failed to demonstrate that he has complied with his licence conditions.
22. By virtue of this ongoing appeal the appellant has now had the benefit of a trainee licence since 2 October 2023 a period of over 12 months.
23. In his response to the refusal on 25 March 2024 the appellant accepted that he had "sufficient experience to pass my last exam"
24. The trainee licence is not an alternative to being a fully qualified ADI. While it is possible for trainee licence holders to charge for their services, the purpose of

the licence is to provide an opportunity to obtain experience to assist them to prepare for their part 3 test.

25. On his own evidence the Appellant has had sufficient time to prepare for his part 3 test.
26. In fixing a period of 6 month to allow for trainee instructors to progress Parliament must have had in mind that we are all subject to differing life events that affect our ability to undertake certain tasks. Sometimes those events are so unusual or have such a bearing on an individual that it will be entirely appropriate to find that a longer than normal period of time should be allowed to complete a task. Here the Appellant submits that there has been a loss of training time because he has another full-time role which is limited his training time to weekends. However, the appellant would have been aware that his licence was limited to 6 months. There is no evidence that the appellant has sought to put in any other form of arrangement to maximise his training such as a sabbatical from his existing employment, compressed hours, part-time working, training in the evenings or using his annual leave to provide training. In addition, as set out above, the appellant has technically been licenced for around 12 months, well over the 6 months originally granted.
27. A trainee licence is not a requirement in order to sit the part 3 test. The appellant can sit his test regardless of the outcome of this appeal.
28. The issue is whether the Appellant has been able to demonstrate that he has not had sufficient opportunity to prepare for the part 3 test such that a further trainee licence is necessary. I find that the appellant has not demonstrated that this is the case.
29. For all the reasons set out above, I find that the appellant has failed to demonstrate that a further trainee licence should be granted. The respondent's decision is correct, and I dismiss the appeal.

Signed G Wilson

Date 11 November 2024

Judge G Wilson
Judge of the First-tier Tribunal