



NCN [2024] UKFTT 484 (GRC).

Appeal number: D/2023/552V

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

Heard remotely by CVP.

On: 4 June 2024

Decision given on: 11 June 2024

Before

TRIBUNAL JUDGE PETER HINCHLIFFE

between

SALEM ABDULLAH

Appellant

- and -

**THE REGISTRAR OF APPROVED
DRIVING INSTRUCTORS**

Respondent

The hearing took place on 4 June 2024. Mr Abdullah represented himself. Claire Jackson of the DVSA represented the Respondent.

With the consent of the parties, the form of the hearing was to take place by video and phone. The hearing took place with the Tribunal, Mr Abdullah and Ms Jackson attending by video. The hearing used the Tribunal Service's CVP Video Hearing System. The parties confirmed in advance of the hearing that they were content to proceed on this basis. I found that a hearing by phone and video conference was suitable for this case and avoided delay whilst being compatible with the proper consideration of the issues.

Documents to which I was referred included a bundle of 21 pages containing the decision that is the subject of the appeal, the notice of appeal and the evidence from the parties, the parties' correspondence and documentation relating to the appeal. These bundles and the statement of case were available to the parties and the Tribunal in electronic form and the parties confirmed that they had received and had seen such bundles.

Prior notice of the hearing had been published on the gov.uk website, with information about how representatives of the media or members of the public could apply to join the hearing remotely in order to observe the proceedings. As such, the hearing was held in public.

DECISION

The appeal is dismissed.

REASONS

Background to Appeal

1. This appeal concerns a decision of the Registrar of Approved Driving Instructors ("the Registrar") made on 25 October 2023 to refuse to grant Mr Abdullah a further trainee licence.
2. Mr Abdullah is a trainee driving instructor who was granted two trainee licences under s.129 of the Road Traffic Act 1988¹ ('the Act') each for a six month period. He requested a further licence extension at the end of the twelve month period from 3 October 2022 to 2 October 2023 covered by these two licences. This was refused by the Registrar.
3. The Registrar's reasons for refusal were explained in the decision dated 25 October 2023 (the "Decision") and were, in summary, that the twelve month duration of the two trainee licences that had been issued to Mr Abdullah should have been sufficient to permit Mr Abdullah to gain the experience required to pass the final part of the Approved Driving Instructors ("ADI") qualifying examination. In the Registrar's view, Mr Abdullah had been given ample opportunity to pass his ADI Part 3 test and he had not provided any evidence that he had lost training time due to

¹ <http://www.legislation.gov.uk/ukpga/1988/52/part/V/crossheading/licences>

circumstances beyond his control. Furthermore, it was not Parliament's intention that a training licence should be granted for as long as a trainee instructor requires in order to pass the Part 3 test. There is no requirement that someone taking a Part 3 test has to have a trainee licence, so Mr Abdullah remains in a position to take the test.

4. Mr Abdullah now appeals the Decision.

Appeal to the Tribunal

5. Mr Abdullah submitted a Notice of Appeal dated 29 November 2023 stating that the appeal should succeed because he needs more time as a trainee instructor in order to prepare for his ADI Part 3 test and he has a right to a licence to permit him to prepare for his Part 3 test. He is committed to becoming a driving instructor. There have been difficulties and delays finding dates for Part 3 tests, where a long backlog has built up. Mr Abdullah believed that a further period with a trainee licence would assist him in undertaking the training required to pass the ADI Part 3.

The Law

6. The grant of a trainee licence enables applicants to provide instruction for payment before they are qualified. The circumstances in which trainee licences may be granted are set out in s.129 of the Act and in the Motor Cars (Driving Instruction) Regulations 2005².

7. A licence under section 129(1) of the Act is granted:

'for the purpose of enabling a person to acquire practical experience in giving instruction in driving motor cars with a view to undergoing such part of the examination... as consists of a practical test of ability and fitness to instruct'.

8. In order to qualify as an Approved Driving Instructor, applicants must pass the Qualifying Examination. This comprises: the written examination ('Part 1'); the driving ability and fitness test ('Part 2'); and the instructional ability and fitness test ('Part 3'). Three attempts are permitted at each part. The whole examination must be completed within 2 years of passing Part 1, failing which the whole examination has to be retaken.

9. If a candidate has passed Part 2, they may be granted a trainee licence. However, holding a trainee licence is not a prerequisite to qualification as an Approved Driving Instructor and I am informed that people qualify as an Approved Driving Instructor without having held a trainee licence.

10. The powers of the Tribunal in determining this appeal are set out in s.131 of the Act. The Tribunal may make such order as it thinks fit.

² http://www.legislation.gov.uk/ukxi/2005/1902/pdfs/ukxi_20051902_en.pdf

11. When making its Decision, the Tribunal stands in the shoes of the Registrar and takes a fresh decision on the evidence available to it, giving appropriate weight to the Registrar's decision³ as the person tasked by Parliament with making such decisions. The burden of proof in satisfying the Tribunal that the Registrar's decision was wrong rests with Mr Abdullah.

Evidence

12. The Registrar stated in advance of the hearing that as Mr Abdullah had applied for a new licence before the expiry date of his then current licence, the licence remained in force at the present time and allowed Mr Abdullah to continue to give driving instruction until the determination of this appeal. A trainee licence is not intended to give a trainee a source of income, but was issued for the purposes of training and preparation.

13. Mr Abdullah repeated the grounds of his appeal at the hearing. He added that he did not understand why the licence application had been refused. He believed that he had a right to an extension and his main income now came from driving instruction. He had failed his last attempt at the Part 3 test by one point. Mr Abdullah confirmed he had arranged a third and final Part 3 test date for 4 July 2024.

14. At the hearing Ms Jackson, for the Registrar, stated that Mr Abdullah had now had a trainee licence for 20 months by virtue of this appeal process. She said that the legislation does not provide any right to continual extensions.

Conclusion

15. I have carefully considered all of the evidence and submissions before me.

16. I note that, as the Registrar has pointed out, Mr Abdullah does not need to hold a trainee licence to take further attempts at the Part 3 test and thus further tests will not be jeopardised by the dismissal of this appeal. The overall period in which Mr Abdullah has been able to give driving instruction is 20 months, which should have provided a reasonable opportunity to obtain the practical experience envisaged by the Act.

17. In all the circumstances of this appeal I conclude that against the background of the above findings Mr Abdullah's appeal fails for the reasons set out in the Decision and because he has had sufficient opportunity to prepare himself for the Part 3 test since his trainee licence was first issued on 3 October 2022.

18. The appeal is dismissed with immediate effect.

³ See *R (Hope and Glory Public House Limited) v City of Westminster Magistrates' Court* [2011] EWCA Civ 31. <http://www.bailii.org/ew/cases/EWCA/Civ/2011/31.html>. Approved by the Supreme Court in *Hesham Abdullah (Iraq) v Secretary of State for the Home Department* [2016] UKSC 60 at paragraph 45 – see <https://www.supremecourt.uk/cases/docs/uksc-2015-0126-judgment.pdf>.

Signed

PETER HINCHLIFFE
Judge of the First-Tier Tribunal

DATE: 4 June 2024

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