



Neutral citation: NCN [2024] UKFTT 00607 (GRC).

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

Appeal Number: D/2024/97

**Determined on the papers
On 9 July 2024**

Decision given on 10 July 2024

Before

JUDGE OF THE FIRST-TIER TRIBUNAL J K SWANEY

Between

DARREN WARMINGTON-LOWE

Appellant

and

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

Representation

Appellant: In person
Respondent: Ms C Jackson

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 8 January 2024 to refuse his application for a trainee licence.
3. The appellant was granted two trainee licences valid for a period of twelve months between 28 November 2022 to 27 November 2023. On 12 November 2023 the appellant applied for a third trainee licence.

4. On 6 December 2023 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 12 December 2023 stating that he had had to find another registered trainer because his existing trainer had been unable to offer training due to his personal circumstances. He also stated that he had had difficulty in finding a trainer who could meet his particular training needs. He advised that he had recently found a trainer who could meet his needs but that he considered that it would take a few months to establish an effective learning dynamic.
6. The respondent proceeded to refuse his application.

The respondent's decision

7. The respondent gave the following reasons for the decision made on 8 January 2024:
 - (i) The appellant had failed to provide evidence of a lack of pupils or practice time.
 - (ii) Two trainee licences for six months each are 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.

The appellant's case

8. The appellant lodged a notice of appeal dated 23 January 2024.
9. In his grounds of appeal, the appellant states that he seeks a third trainee licence because of delays in receiving a date to sit his part 3 exam. The appellant also refers to his trainer's personal difficulties and the fact that they had agreed that it would be best for him to find a new trainer. He states that he had, at the time of completing his notice of appeal, found a new trainer.
10. The appellant states that being a driving instructor is his sole source of income and that he could not meet his expenses if required to provide instruction without receiving payment.

The appeal hearing

11. The hearing took place by video and there were no objections to this as a suitable method of hearing. The appellant attended and gave evidence. I heard submissions from both parties.
12. In determining the appeal, I considered the oral evidence and submissions together with the documents contained in the hearing bundle, which was prepared by the respondent. The appellant confirmed that he had received a copy of the appeal bundle.

The law

13. 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).
14. 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).
15. 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.
16. 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).
17. 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.
18. It is for the appellant to show on the balance of probabilities that the respondent's decision was wrong.

Findings and reasons

19. The appellant's position at the hearing was that his test booked for 29 April 2024 was cancelled by the DVSA. He was not aware of the reason for the cancellation. He stated that he has another test booked for Monday 15 July 2024.
20. The appellant confirmed that he has continued to develop his skills while his trainee licence has been valid pending the outcome of this appeal. He stated that he considers that he is ready to sit the part 3 test and that he was ready to do so in April.
21. When asked why, if he is ready to sit the test and he is booked to sit the test in a week's time, it is necessary for his trainee licence to continue, the appellant stated that he has several students that he wishes to continue teaching and that he cannot afford to do so without payment. The appellant stated that driving instruction is his only source of income and he could not afford to meet his overheads without it.

22. 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. The appellant has now had the benefit of a trainee licence since 28 November 2022, a period of 19 months.
23. On his own evidence this has been sufficient time for him to prepare for his part 3 test. The appellant also accepted that in the six days between the date of hearing and the date of his test, the overhead costs of being a driving instructor are not an issue. He reiterated it is just the existing students he has that he wishes to continue to instruct and be able to charge them for doing so.
24. Whether the appellant can continue to seek payment after the date of his part 3 test is not a matter for the tribunal. The issue is whether he 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 he has not demonstrated that this is the case.
25. A trainee licence is not a requirement in order to sit the part 3 test. The appellant can sit his test on 15 July 2024 regardless of the outcome of this appeal.
26. I find for these reasons that the appellant has failed to demonstrate that a further trainee licence is necessary. The respondent's decision is correct, and I dismiss the appeal.

Signed J K Swaney

Date 9 July 2024

Judge J K Swaney
Judge of the First-tier Tribunal