



Neutral citation number: [2024] UKFTT 00759 (GRC)

Case Reference: FT/D/2024/0283

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

**Determined in the absence of the Appellant in a Remote Oral Hearing  
On: 14 August 2024**

**Decision given on: 27 August 2024**

**Before**

**JUDGE DAMIEN MCMAHON**

**Between**

**MUHAMMAD JALAL**

**-and- 2024**

Appellant

**REGISTRAR OF APPROVED DRIVING INSTRUCTORS**

Respondent

**Decision:** The appeal is Dismissed. The Decision of the Respondent made on 13 March 2024 is confirmed.

Representation

The Appellant failed to appear. He did not have a representative.

The Respondent was represented by Ms. Claire Jackson

## *Background*

1. This appeal concerns a decision of the Respondent made on 13 March 2024 to refuse to grant the Appellant a third trainee licence.
2. The Appellant is trainee driving instructor who had been granted two trainee licences pursuant to s.129 of the Road Traffic Act 1988 ('the Act') for the period from 6 February 2023 to 5 February 2024 (a total of 12 months), but who was refused an application dated 3 January 2024 for a further, third, trainee licence.
3. This appeal was listed for remote oral hearing by CVP at 10.00 on Monday, 14 August 2024. The Appellant failed to appear. A telephone call was made to him this morning multiple times by the clerk but, each time, the call went straight to voicemail. The clerk also sent the Appellant an email this morning but no reply was received. No communication was received, at any time, from the Appellant, to explain his non-appearance. The Tribunal waited until 10.10 before proceeding in the Appellant's absence.
4. The Respondent's reasons for refusal, in summary, taking account of representations made by the Appellant on 16 February 2024, that he had lost a lot of driving tuition training time due to his also training to be an aircraft pilot and that his trainer (it being unclear whether this was his driving instructor trainer or his aircraft pilot trainer), had been on holiday, were that the Appellant had made a choice to also train as an aircraft pilot and would have been fully aware of the impact this might, or would, have on his practice time to qualify as an Approved Driving Instructor ('ADI'); that a trainee licence (two in the case of the Appellant) was to give an ADI applicant an opportunity of giving driving instruction to people, for payment, while endeavouring to obtain registration as an ADI - not to be used as an alternative to the ADI registration system; that the Appellant had been given a very reasonable period to reach the qualifying standard to become an ADI and get any necessary practical experience in tuition; a trainee licence was not to enable an ADI applicant to provide paid driving tuition for however long it took them to pass the Part 3 test; that the Appellant had failed his Part 3 (instructional ability test) twice and had cancelled three other Part 3 test appointments (although one other appointment had also been cancelled by the Respondent); that it was not necessary to hold a trainee licence in order to undertake a Part 3 test; that a refusal to issue a third trainee licence, did not prevent the Appellant from undertaking a Part 3 test (there being precedent whereby successful ADIs never had held a trainee licence). Finally, since the Appellant applied for a third trainee licence before his second trainee licence had expired, his second trainee licence remained in force until the determination of this appeal. This meant that until determination of this

appeal, the Appellant could continue to provide paid driving tuition, proving him with an additional period of approximately 6 months – 18 months in total.

5. The Appellant, as at the date of today's hearing, had not yet booked his final attempt at a Part 3 test.

6. The Respondent's representative confirmed in oral submissions that she had advised the motor insurers for prospective ADI applicants, on many occasions, that their existing trainee licence remained in force until such times as any appeal against a decision of the Respondent was determined by the Tribunal.

7. The Appellant appealed the said decision of the Respondent to refuse his application for a third trainee licence to the Tribunal.

#### *Appeal to the Tribunal*

8. The Appellant's Notice of Appeal, dated 23 March 2024, did not state any grounds of appeal.

#### *The Response of the Respondent.*

9. The Response of the Respondent dated 8 February 2024 is summarised in paragraph 4 of this Decision.

#### *Appellant's Reply*

10. The Appellant, in a Reply dated 5 May 2024 to the Respondent's Response, submitted that many ADI applicants were granted a third trainee licence and suggested that this purportedly depended on the whim of the Respondent. This assertion was firmly rejected by the Tribunal. The Appellant went on to submit that if he were not granted a third trainee licence, his motor insurance would be cancelled, on the erroneous basis that he would not have a valid trainee licence upon expiry of his second trainee licence, thereby adversely impacting on his ability to gain practical driving instructional experience. However, this submission was rejected by the Tribunal since the Appellant had applied for a third trainee licence before his second trainee licence had expired. Accordingly, his second trainee licence remained in force until determination of this appeal.

#### *Mode of Determination*

11. The parties and the Tribunal agreed that this matter was suitable for oral determination in accordance with Rule 32 of The Tribunal Procedure (First-tier

Tribunal) (General Regulatory Chamber) Rules 2009, as amended ('the Rules'). The Tribunal considered a bundle containing 23 pages.

### *The Law*

12. 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 the Motor Cars (Driving Instruction) Regulations 2005 ('the Regulations').

13. 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'.***

14. In order to qualify as an ADI, 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').

15. 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.

16. 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 ADI and many people qualify as an Approved Driving Instructor without having held a trainee licence at all.

17. 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.

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

### *Evidence*

19. The parties did not file any witness statements. I have seen the Appellant's test history; his application for the two trainee licence previously granted; his application for a third trainee licence, and the submissions and correspondence passing between the parties.

*Conclusion*

20. I have considered carefully all the papers before me. I note that the Appellant has already had, most recently, the benefit of two trainee licences in total, covering a period of 12 months which is adequate to prepare for the Part 3 test (he having an even longer period pending determination of this appeal). He is able to continue to gain experience and take the test without a trainee licence, and it is not a substitute for taking and passing the Part 3 test. It is not the purpose of trainee licences to keep renewing them until all attempts at passing Part 3 have been taken.

21. The Appellant has not persuaded me that the Respondent's decision was wrong in any way. In all the circumstances, I agree with the Respondent's decision.

22. Accordingly, I dismiss this appeal.

Signed

Date: **14 August 2024**

***Damien McMahon,***

***Tribunal Judge***

***Corrected: 21 October 2024.***

***Damien McMahon.***