



Neutral citation number: [2024] UKFTT 765 (GRC)

Case Reference: FT/D/2024/0298

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

**Heard by Cloud Video Platform
On: 14 August 2024**

Decision given on: 29 August 2024

Before

JUDGE DAMIEN MCMAHON

Between

NAZAR ALJEBARI

Appellant

-and-

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

Representation:

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

For the Respondent: Claire Jackson

Decision:

The appeal is Dismissed. The Decision of the Respondent made by the Respondent on 15 March 2024 is confirmed.

REASONS

1. This appeal was listed for remote oral hearing by CVP on 14 August 2024, a mode of hearing agreed by the parties (albeit, the Appellant had difficulty connecting to the CVP link and joined, instead, by telephone after a short delay). The Appellant

attended and gave oral evidence and made oral submissions, as did the representative of the Respondent.

2. The Appellant appealed against a decision of the Respondent dated 15 March 2024, to refuse the Appellant's application for a second trainee driving instructor licence made on 21 February 2024. The decision of the Respondent was made, taking account of representations made by the Appellant on 3 March 2024, on the grounds that the Appellant had failed to comply with conditions of his first trainee licence, namely, failing to complete his training objectives on his training record within the first three months of his first trainee licence period. The Respondent also maintained, in making their decision, that it was not the intention of Parliament that Approved Driving Instructor ('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 him 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 12 months and that, in granting the Appellant his first trainee licence, for six months, was designed to enable him to gain sufficient experience to pass his instructional ability test (that is, his Part 3 test).
3. The Appellant submitted an appeal on 26 March 2024 against the Respondent's said decision on the following grounds:
 - that he had been involved in a no fault road traffic accident that significantly impacted on his mobility that, in turn, challenged his ability to undergo 'required training' during the period of his first trainee licence, thereby hindering his progress;
 - that the grant of a second trainee licence would allow him the opportunity to 'catch up on necessary training' and, thereby, enable him to proceed with his Part 3 test;
 - that he could not obtain an available date over the previous six months to undertake his Part 3 test;
4. The Appellant also submitted a medical appointment letter dated 19 March 2024.
5. In his oral evidence, the Appellant stated he did not complete his training record within the required three-month period due to his injuries sustained in his said road traffic accident that occurred on 24/12/2023, from which he had recovered two months ago, but that he had misunderstood the requirements of the relevant Regulations in that regard in any event. He stated that he had undertaken 20 hours additional training, but not within the said three-month period, and that he had not advised the Respondent of this in any event. He confirmed he had failed his first attempt to pass his Part 3 test due, he maintained, to being unable to undertake enough training. He acknowledged that he could undertake a Part 3 test without

holding a trainee licence but submitted he needed to be able to charge tuition fees (that would require him to hold a trainee licence). He also acknowledged that some ADI candidates passed their Part 3 tests without ever having held a trainee licence, and that a trainee licence was not required to undertake a Part 3 test but, again, that he, personally, needed to be able to charge tuition fees.

6. The Respondent, in their Response dated 24 April 2024, in addition to the submissions made in the decision under appeal, stated:
 - that a trainee licence had been granted to the Appellant covering the period 4 September 2023 to 3 April 2024 (a total of 6 months) that was a reasonable period in which to reach the ADI qualifying standard and, in particular, to obtain any practical experience in providing driving tuition;
 - that the Appellant had failed his first attempt to pass his Part 3 test;
7. In her oral submissions, the Respondent's representative confirmed that the Appellant had an appointment to take a Part 3 test, for the second time, on 13 September 2024; that since the Appellant had applied for a second trainee licence before the expiry of his first trainee licence, his period of being able to undertake paid driving tuition had, in effect, been more than 12 months. She confirmed that the reasons for refusal of the Appellant's application for a second trainee licence were both the express reason concerning the lack of a training record as well as the broader 'standard' reasons.
8. This appeal concerns 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.
9. The basis of the Respondent's decision was that the Appellant had been provided, under a trainee licence, more than adequate time to gain sufficient experience to pass his Part 3 test as well as his failure to provide a training record within the permitted time.
10. An appeal to this Tribunal against the Respondent's decision proceeds as 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.
11. 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.

12. There was little or no dispute as to the material facts of this case at the hearing.

13. Accordingly, the appeal is dismissed.

Signed: *Damien McMahon*,

Tribunal Judge

Date: 14 August 2024