



Neutral citation number: [2024] UKFTT 00770 (GRC)

Case Reference: FT/D/2024/0312

First-tier Tribunal

**General Regulatory Chamber
Transport**

**Determined at an oral hearing
on the 20th August 2024
Decision given on: 09 September 2024**

Before

HHJ DAVID DIXON

Between

MICHAEL ALLSOP

Appellant

and

**THE REGISTRAR OF APPROVED
DRIVING INSTRUCTORS**

Respondent

Decision: The appeal is dismissed and the Registrar's decision remains.

REASONS

Background to Appeal

1. This appeal concerns a decision of the Registrar of Approved Driving Instructors (“the Registrar”) made 27th March 2024 to refuse to grant the Appellant a second trainee licence.
2. The Appellant is a trainee driving instructor who was granted a trainee licence under s.129 of the Road Traffic Act 1988¹ (‘the Act’) for a six-month period, but was refused a further licence at the end of the relevant period.
3. The Registrar’s reasons for refusal, in summary, were that the Appellant had not passed the final part of the ADI qualifying examination within the relevant period and as insufficient evidence of loss of training time was supplied that the Appellant had had long enough to progress, and the application to issue a second trainee licence was therefore refused.
4. The Appellant now appeals the Registrar’s decision.

Appeal to the Tribunal

5. The Appellant’s Notice of Appeal, 1st April 2024, indicates that he has had plenty of opportunity to train, in fact he asserts that he has completed more training than the norm. The basis of his appeal however is that there is a shortage of test slots and he seeks an extension to be able to continue to teach until his test.
6. The Respondent submitted a Response indicating that the decision letter sets out their position. The Registrar points out that the Applicant had sufficient time to progress.
7. The Registrar indicates that the Appellant had a test booked for the 8th July 2024. The Appellant failed that test. His next test is booked for the 15th October 2024.
8. The Registrar indicates the Appellant has been licensed already from 9th October 2023 to date.

Mode of Determination

9. The Tribunal considered the appeal at an oral hearing via the CVP video system.

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

10. The Appellant failed to attend and was unrepresented. The Respondent was represented by Claire Jackson of the Registrar's Appeal's Team.
11. The Tribunal made attempts to contact the Appellant, but couldn't get a response. The hearing was delayed for 15 minutes to see if there was any contact from the Appellant, but none was received. The hearing had been set and formal notice of the same was given to the Appellant. Bearing in mind the nature of the appeal and the over riding objective that cases should be resolved expeditiously, but fairly, the Tribunal came to the view it should proceed.
12. The Tribunal considered a bundle of evidence containing 23 pages.

Evidence

13. The Respondent repeated the details of the Response. She also indicated the date of the Appellant's next test as indicated above.

The Law

14. 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 2005².

15. 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'.

16. 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.
17. 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 many people qualify as an Approved Driving Instructor without having held a trainee licence.
18. 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.
19. When making its Decision, the Tribunal stands in the shoes of the Registrar of approved Driving Instructors 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

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

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 Ali (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>.

making such decisions. The burden of proof in satisfying the Tribunal that the Registrar's decision was wrong rests with the Appellant.

Conclusion

20. The Tribunal considered carefully all the papers before it.
21. 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 has provided no evidence of being unable to train. He has indicated that it has been difficult to undertake a test, indeed his first test that he was able to book was 10 months after his licence commenced, but nothing else was suggested.
22. The purpose of the licence is to allow training. At the point of the application the Appellant was indicating he had completed more training than the norm. The licence has met its purpose. Regrettably I do not believe that a further period can be justified. The Appeal is dismissed with immediate effect.
23. The Appellant is still able to attempt his Part 3 examination without a licence, and if he so chooses, the Tribunal wishes him well.

(Signed)

HHJ David Dixon

DATE: 20th August 2024