



Neutral citation number: [2024] UKFTT 824 (GRC)

Case Reference: FT/D/2024/0478

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

**Determined in the absence of the Appellant in a Remote Oral Hearing
On: 11 September 2024**

Decision given on: 13 September 2024

Before

JUDGE DAMIEN MCMAHON

Between

MUHAMMAD ALI NOOR

Appellant

-and-

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

Decision: The appeal is Dismissed. The Decision of the Respondent made on 15 May 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 15 May 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 17 April 2023 to 16 April 2024 (a total of 12 months), but who was refused an application dated 12 April 2024 for a further, third, trainee licence.

3. This appeal was listed for remote oral hearing by CVP at 12.00 noon on Monday, 14 August 2024. The Appellant failed to appear. Five telephone calls were made to him this morning by the clerk but, each time, the calls went straight to voicemail. No communication was received, at any time, from the Appellant, to explain his non-appearance. The Tribunal waited until 15:10 before proceeding in the Appellant's absence.

3. The Respondent's reasons for refusal, in summary, taking account of representations made by the Appellant on 29 April 2024, that he had faced challenges in getting an appointment to undertake a Part 3 test at a local test centre (although he had not attempted to book a Part 3 test until October 2023), were 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 more than adequate time to reach the qualifying standard to become an ADI and get any necessary practical experience in tuition; that 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 the Part 3 test on his first attempt on 18 April 2024 and had cancelled an appointment for 24 July 2024; 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) and that the Appellant had been given more than adequate time to gain sufficient expertise to pass his Part 3 test. 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, thus providing him, in practical terms, with the benefit of a trainee licence for some 17 months.

4. In oral submissions at the hearing, the Respondent's representative confirmed that the Appellant had a second attempt to undertake a Part 3 test booked for 28 November 2024 and that the Respondent had received no other contact from the Appellant.

Appeal to the Tribunal

7. The Appellant's Notice of Appeal, dated 27 May 2024, significantly, did not provide any grounds of appeal. He stated, however, that he wished to be granted a third trainee licence to allow him to continue practising and maintaining his skills as a driving instructor and that he hoped to utilise the time remaining before his Part 2 test Certificate expired effectively and to enhance his chances of passing his Part 3 test. He also referred to the refusal of his application for a third trainee licence

having significant financial implications. However, it was a misconception on the part of the Appellant to maintain that, for any of those reasons, he required to hold another trainee licence. Further, the purpose of a trainee licence is not to provide an ADI applicant with a source of income.

The Response of the Respondent.

8. The Response of the Respondent dated 23 April 2024 is summarised in paragraphs 3 and 4 of this Decision.

Mode of Determination

8. The Tribunal decided 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 the entirety of the written evidence and submissions contained in the bundle and the oral submissions of the Respondent's representative.

The Law

9. 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').

10. 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'.

11. 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').

12. 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.

12. 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.

13. 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.

14. 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.

Conclusion

15. I have considered carefully all the papers before me and the oral submissions of the Respondent's representative. 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 - 17 months in total - pending determination of this appeal). He was 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.

17. 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.

18. Accordingly, I dismiss this appeal.

Signed

Date: **11 September 2024**

Damien McMahon,

Tribunal Judge