



Neutral citation number: [2024] UKFTT 00850 (GRC)

Case Reference: FT/D/2024/0206

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

**Determined on the papers
On: 20 September 2024**

Decision given on: 24 September 2024

Before

JUDGE DAMIEN MCMAHON

Between

ALEXANDRA FAITH HUGHES

Appellant

-and-

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

Decision: The appeal is Dismissed. The Decision of the Respondent made on 28 February 2024 is confirmed.

REASONS

1. This appeal was listed for determination on the papers only, with the agreement of the parties.

2. The Appellant appealed against a decision of the Respondent dated 28 February 2024, to refuse the Appellant's application for a second trainee driving instructor licence made on 12 December 2023. The decision of the Respondent was made, taking account of representations made by the Appellant on 20 January 2024, namely, that she needed a second trainee licence to enable her to continue to learn and prepare for a Part 3 test; that she had failed her first attempt at a Part 3 test and was 'on hold' for a second attempt at a Part 3 test, that, she maintained, would be around 6 months; that a second trainee licence would allow her to teach pupils [for payment] that she currently had, some of whom were close to their test dates, that would be a disservice to them and did not want to let them down; that she was a full-time mother with two young boys, making completing training and undertaking a Part 3 test a huge task; that she wanted driving instruction to be a successful career to help others to achieve their goal to drive a vehicle; that she was determined to succeed in her second attempt at a Part 3 test and wanted a second trainee licence to have that opportunity and continue to teach while awaiting a test date. [but no representations were made concerning non-compliance with the conditions of her first trainee licence], on the grounds that the Appellant had not complied with the conditions of her first trainee licence by providing a training record in Form AD1 21S, having ticked the 'supervisory' training option; that the purpose of a trainee licence was to enable the Appellant to gain sufficient experience to pass her Part 3 test, that, it was submitted, was more than adequate time to do so; that it was not the intention of Parliament that a trainee licence be issued for however long it might take to pass a Part 3 test and that the trainee licence system could not be allowed to become an alternative to registration as a fully-qualified Approved Driving Instructor ('ADI').
3. The Appellant submitted an appeal on 2 March 2024 against the Respondent's said decision on the following grounds:
 - that she wanted a second trainee licence due to the waiting time for a Part 3 test, through no fault of hers. [Again, there was no reference concerning the reason for the Respondent's decision, namely, the Appellant's non-compliance with the conditions of her first trainee licence].

The grounds advanced by the Appellant did not, in fact, address the reasons advanced by the Respondent for the decision under appeal.

4. The Respondent, in their Response dated 27 May 2024, reiterated the above-mentioned reasons for refusing the Appellant's application for a second trainee licence. In addition, it was confirmed that the Appellant's existing trainee licence remained valid until the determination of this appeal. In essence, this meant that the Appellant had the benefit of a trainee licence for at least 18 months; that refusal of a second trainee licence was not a bar to attempting a Part 3 test (subject to the maximum permitted number of attempts); that a trainee licence was not required for that purpose and, instead, the Appellant could, if she thought it necessary to prepare for another attempt at a Part 3 test, undertake a training course or study and practise with an ADI or undertake unpaid driving tuition. The Respondent also confirmed that the Appellant had an appointment to undertake another Part 3 test on 24 May 2024, the outcome of which was not before the Tribunal.

5. 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 for their decision. The burden of proof in satisfying the Tribunal that the Respondent's decision was wrong rests with the Appellant.
6. The essential basis of the Respondent's decision was that the Appellant had been provided under her first trainee licence, more than adequate time to gain sufficient experience to pass her Part 3 test and that she had not complied with the conditions of that licence.
7. 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.

8. 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.

9. There was little or no dispute as to the material facts of this case.

10. Accordingly, the appeal is dismissed.

Signed: ***Damien McMahon,***

Tribunal Judge

Date: 20 September 2024