



Appeal Number: FT/D/2024/0458  
Neutral citation number: [2024] UKFTT 915 (GRC)

**First-tier Tribunal  
(General Regulatory Chamber)  
Transport**

**Hearing on the GRC CVP:** 07 October 2024.

**Decision:** on 07 October 2024  
Decision given on: 25 October 2024

**Before:** Brian Kennedy KC

**IN THE MATTER OF:** Part V of the Road Traffic Act 1988.

**Between:**

**ROSS ALLAN**

Appellant

**and**

**REGISTRAR OF APPROVED DRIVING INSTRUCTORS**

Respondent

**DECISION**

1. The appeal is dismissed, and the respondent's decision of 09 May 2024 is confirmed.

**REASONS**

**Background:**

2. Section 123(1) of the Road Traffic Act 1988 ('the Act') prohibits the giving of instruction paid for by or in respect of a pupil in the driving of a motor car unless the instructor's name is on the Register of Approved Driving Instructors, or he is the holder of a current licence issued under Section 129(1) of the Act.
3. A licence under Section 129 of the Act was granted to the Appellant for the purpose of enabling him to gain practical experience to undergo the examination of his ability to give instruction in the driving of motor cars and was valid from 30 October 2023 to 29 April 2024.

4. On 16 April 2024 the Appellant applied for a second licence. By way of an email dated 18 April 2024 the Appellant was notified that the Respondent was considering the refusal of his application for a second licence. By way of an email received on 22 April 2024 the Appellant made representations including that his wife had a very bad pregnancy and had been ill since their child was born, and as their son needed surgery. This, he said made it impossible to complete training within the time limit.
5. After considering these representations the Respondent decided to refuse the Appellant's application finding he had failed to comply with the conditions of his first licence as the training objectives on his ADI 21AT training record form were not completed within the first three months of the licence period and gave him notice of the decision in accordance with Section 129(4) of the Act, by an email dated 09 May 2024.

**The respondent's decision:**

6. The respondent gave the following reasons for the decision made:
  - i. the purpose of the provisions governing the issue of licences is to afford applicants the opportunity of giving instruction to members of the public whilst endeavouring to achieve registration. The system of issuing licences is not and must not be allowed to become an alternative to the system of registration;
  - ii. the licence granted to applicants is not to enable the instructor to teach for however long it takes to pass the examinations, but to allow up to six months experience of instruction. This provides a very reasonable period in which to reach the qualifying standard in the examination and in particular, to obtain any necessary practical experience in tuition. Moreover, by virtue of the Appellant having applied for a second licence before the expiry date of the first, that licence has remained in force to the present time and will allow him to continue to give paid instruction until determination of the appeal;
  - iii. since passing his driving ability test the Appellant has failed the instructional ability test once and cancelled three more such tests booked for 23 April, 30 May and 18 June 2024. Regrettably, DVSA cancelled one such test booked for 22 April 2024. Despite ample time and opportunity, the Appellant has not been able to reach the required standard for qualification as an Approved Driving Instructor; and
  - iv. the refusal of a second licence does not bar the Appellant from attempting the instructional ability test of the Register examinations. He does not need to hold a licence for that purpose, nor is it essential for him to give professional tuition under licence in order to obtain further training. The Appellant could attend a training

course, or study and practice with an Approved Driving Instructor or give tuition on his own (provided that he does not receive payment of any kind for this). These alternatives are used by some trainees who acquire registration without obtaining any licences at all.

7. The Respondent also noted that the Appellant had his final attempt at the instructional ability test booked on hold, awaiting a test date. Should the test go ahead, then the regulations determine that any appeal is bound to fail as a trainee licence can only be issued in order that an individual can gain the practical experience required to take the test.
8. The Appellant lodged a notice of appeal and in his grounds of appeal, he stated that although he conceded he did his training late however his wife had had a difficult time giving birth to their child and was not well. He was signed off work and his son had had surgery. He could not fit training in. He provided written reasons on 14 June 2024 and sought an oral hearing before the Tribunal which has taken place on 7 October 2024, and the Appellant reiterated his concerns as previously expressed in writing.
9. In determining the appeal, I considered all the documents within the Hearing bundle including the Appellants' written representations together with such material medical evidence as he had supplied, and I explained to him the spirit of the Law involved and why circumstances such as family bereavement and such life eventualities and other distractions cannot easily circumvent the practice of registration as intended by parliament.

**The law:**

10. This appeal relates to the refusal of a trainee licence which may be issued to a candidate who is preparing to sit the qualifying examination to become an ADI. The circumstances in which a person may be granted a trainee licence are set out in section 129 of the Road Traffic Act 1998 (the Act) and the Motor Cars (Driving Instruction) Regulations 2005 (the Regulations).
11. Pursuant to regulation 3 of the Regulations, the qualifying examination to become an ADI consists of three parts: a written examination (part 1); a driving ability and fitness test (part 2); and an instructional ability and fitness test (part 3).
12. A candidate is permitted three attempts at each part. The whole examination must be completed within two years of passing part 1, failing which the candidate must retake the whole examination. Once a candidate has passed part 2 they may be granted a trainee licence.
13. The purpose of the trainee licence is to enable a person to acquire practical experience

in giving instruction in driving motor cars with a view to undergoing such part of the examination referred to in section 125(3)(a) as consists of a practical test of ability and fitness to instruct, which is part of the qualifying examination to become an Approved Driving Instructor (ADI)

14. The Appellant has a right of appeal against the Respondent's decision pursuant to section 131 of the Act. On appeal the tribunal may make such order as it thinks fit.

**The appeal:**

15. The Appellant elected to have his appeal determined on the papers without a hearing. There was no objection from the Respondent, and he attended an oral hearing before this Tribunal on 07 October 2024 where he explained his grounds in detail and the Tribunal explained the law and the spirit of the Law in this area.

**Findings and reasons:**

16. This is a case where the Respondent Registrar has refused to grant a second trainee licence on the grounds that the Appellant has failed to comply with the conditions of the issue of his first licence. Regulation 15, chapter 3 (b) of The Motor Cars (Driving instruction) regulations 2005 which states that supplementary training must be evidenced to the Registrar not later than the day after the first relevant date. Chapter 6 of the regulations states the first relevant date is the last day of the first 3 months from when the licence was granted.
17. As can be seen from the ADI 21AT form (page 18 of the bundle) 9 training objectives were completed outside of the 3-month period.
18. The Appellant has now had the benefit of nearly 12 months of using a trainee licence which is more than sufficient period of time to gain practical experience and pass the part 3 test.
19. The Appellant has failed two attempts at the part 3 test and cancelled multiple other test appointments. He has his final attempt booked for 18 November and does not require a trainee licence to sit the part 3 test.
20. Finally, the Tribunal give significant weight to the fact that there is no permanent restriction or prohibition on the Appellant as described at paragraph 6 iv. above.
21. It is for the Appellant to show on the balance of probabilities that the Respondent's decision was wrong and for the above reasons The Tribunal finds he has not established that the Decision under appeal was wrong in Law and accordingly I must dismiss the appeal.