



Neutral citation number: [2025] UKFTT 101 (GRC)

Case Reference: FT/D/2024/0813

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

**Determined on the papers
On: 30 January 2025**

Decision given on: 5 February 2025

Before

JUDGE DAMIEN MCMAHON

Between

ELLIOTT HOLLAND

Appellant

-and-

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

Decision: The appeal is Dismissed. The Decision of the Respondent made on 10 September 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 10 September 2024, to refuse the Appellant's application for a further, third, trainee driving instructor licence made on 8 August 2024. The decision of the Respondent was made, taking account of representations made by the Appellant, in writing, on 15 August 2024, namely, that if he were not to be granted a third trainee licence, he

would have no income and had deliberately reduced the number of pupils he was teaching in order to better focus on where he needed to improve in order to become a better instructor that would help in him passing his Part 3 test; that he had failed a Part 3 test in February 2024, feeling pressured into taking the test at that time by his franchisee as soon as he had completed his additional 21 hours of PDI training, despite being 'woefully unprepared', a position with which his new trainer, it was submitted, agreed; that he had booked another attempt to pass the Part 3 test but remained on hold pending a test date being offered and had undertaken additional training, on the grounds that the Appellant had been granted two trainee licences, covering a period of 12 months in total, from 21 August 2023 to 22 August 2024, to gain sufficient expertise in driving instruction to pass a Part 3 test, a time period that, it was submitted, was more than adequate; that it was not the intention of Parliament that a trainee licence be issued for however long it might take a candidate to become an ADI; that the trainee licence system must 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 another Part 3 test (subject to there being a maximum permitted number of attempts); that a trainee licence was not required to undertake a Part 3 test and that the Appellant's existing second trainee licence remained valid until determination of this appeal (as his application for a third trainee licence had been made before the expiry of his second trainee licence), providing him, in practical terms, with a total trainee licence period of more than 18 months.

3. The Appellant submitted an appeal on 22 September 2024 against the Respondent's said decision on the following grounds in addition to his written representations in response to the Respondent's intention to refuse his application for a third trainee licence:
 - that the Respondent was incorrect to assert that he was using trainee licences for financial gain (but did not elaborate further in support of that contention);
 - that since failing his first attempt to pass his Part 3 test, he had reduced the number of students he taught each week to focus on the feedback he had received and to work hard to improve, thereby cutting his weekly income by 50%;
 - that he had purchased additional training and video training;
 - that driving instruction was his job and only by holding a trainee licence could he 'get by';
 - that without a third trainee licence, he would still have weekly franchise and fuel costs that he could not afford unless he got another job that would be detrimental to his learning
 - that he had a second Part 3 test booked for November 2024;
 - that due to the waiting time to attempt another Part3 test, his trainer would only grant him tuition opportunity of 5 hours per week and, therefore, it was likely he would need to 'buy' more time;
4. The Respondent, in their Response dated 21 November 2024, submitted, in addition, that the Appellant did appear to be using trainee licences as a source of income; that he had failed a Part 3 test on one occasion (6 February 2024), but that the Respondent had cancelled two other dates where the Appellant was to attempt again to pass the Part 3 test (5 February 2024 and 19 November 2024), but that a

second date had been booked for 4 February 2025; that the Appellant, if he wished to gain further experience, could undertake a training course, or study or practice with an ADI or provide unpaid tuition, pointing out that precedent existed whereby applicants succeeded in becoming registered as fully-qualified ADIs not having held any trainee licence.

5. Again, the purpose of a trainee licence, that is, of six months' duration, is to allow an ADI applicant the opportunity of gaining practical experience in driving tuition in order to reach the required standard to pass a Part 3 test and, thereby, become registered as a fully-qualified ADI and it is not necessary to hold a trainee licence in order to undertake a Part 3 test. It must be emphasised that the Appellant in this case had, in practical terms, the benefit of a trainee licence for more than 18 months.
6. This appeal concerns a decision of the Respondent to refuse the Appellant's application for a further, third, 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.
7. The essential basis of the Respondent's decision was that the Appellant had been provided, under two trainee licences (albeit, in practical terms, he had the benefit of a trainee licence for almost 18 months) that was more than adequate time to gain sufficient experience to pass his Part 3 test.
8. 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.
9. In reaching my decision I have taken into account all of the evidence and submissions received, written and oral, and considered all of the circumstances relevant to this appeal.
10. There was little or no dispute as to the material facts of this case.
11. Accordingly, the appeal is dismissed.

Signed: *Damien McMahon*,

Tribunal Judge

Date: 30 January 2025