



Neutral citation number: [2025] UKFTT 104 (GRC)

Case Reference: FT/D/2024/0618

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

**Heard remotely by CVP
On: 30 January 2025**

Decision given on: 6 February 2025

Before

JUDGE DAMIEN MCMAHON

Between

WILLIAM STUART MITCHELL

Appellant

-and-

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

Representation

Appellant: The Appellant appeared on his own behalf.

Respondent: No representative appeared.

Decision: The appeal is Dismissed. The Decision of the Respondent made on 15 July 2024 is confirmed.

REASONS

1. This appeal was listed for determination remotely, by CVP, today, at 11.00. The Appellant attended and gave oral evidence.

2. The Appellant appealed against a decision of the Respondent dated 15 July 2024, to refuse the Appellant's application for a further, third, trainee driving instructor licence made on 17 June 2024. His grounds of appeal reiterated the representations made by him to the Respondent, in writing, on 25 June 2024. The decision of the Respondent was made, taking account of representations made by the Appellant, in writing on 25 June 2024, namely, that while he did not disagree that two trainee licences, previously granted to him, was, indeed, more than adequate time to gain sufficient experience to pass a Part 3 test, there was a lack of availability of dates to undertake a Part 3 test; that he needed a third trainee licence to be able to teach for reward and to have a pupil to bring along on a Part 3 test; that he had booked another, third and final, attempt at a Part 3 test but, as at 25 June 2024, he was on hold pending being notified of a test date; that if he could not continue to teach [by which he had to have meant teach for reward], he could not undertake extra tuition and gain sufficient experience to pass the Part 3 test or even provide a pupil to accompany him during the test and that it was unfair to 'deny' him the chance to take his final attempt to pass his Part 3 test.
3. The Respondent decided that there no evidence of lost practice time had been provided by the Appellant; that he had received the benefit of two trainee licences, covering a 12 month period from 17 July 2023 to 16 July 2024, for the purpose of gaining sufficient expertise in driving tuition to pass a Part 3 test, a period that was claimed to be more than adequate; that it was not the intention of Parliament that trainee licences be issued for as long as it takes an applicant to pass their Part 3 test and that the trainee licence system could not be an alternative to registration as a fully-qualified Approved Driving Instructor ('ADI'); that it was not necessary to hold a trainee licence to undertake a Part 3 test; that refusal of a trainee licence application was not a bar to taking a Part 3 test and that his second trainee licence remained in force until the determination of this appeal as he had applied for a third trainee licence before the expiry of his second trainee licence (that, in practical terms, meant he had the benefit of a trainee licence for more than 18 months).
4. In their Response dated 1 August 2024, the Respondent advised that the Appellant had failed his Part 3 test on two occasions, namely, 9 January 2024 and 10 June 2024; that holding a trainee licence was not necessary to undertake a Part 3 test; that if the Appellant wished to further prepare to undertake his final attempt at a Part 3 test, he could, as an alternative, undertake a training course, or study or practice with an ADI or provide unpaid tuition and that precedents existed for such alternative processes.
5. In his oral evidence, the Appellant confirmed his acceptance that he did not need to hold a trainee licence to undertake a Part 3 test, but, in practical terms, he needed to be able to teach [that could only mean to receive payment for teaching] and to take a pupil along with him to his Part 3 test. He confirmed that his final attempt at passing a Par 3 test would take place on 17 March 2025. When asked for his comments on the alternative ways of preparing for his Part 3 test should he not be granted a third trainee licence, the Appellant advised that his training school would only allow extra training once he got a test date [that he now had received], but needed to hold a trainee licence to be able to do so.. He accepted that he could provide unpaid tuition to a family member or friend but considered that a variety of

pupils, having different perspectives, would better prepare him to undertake the test.

6. The Appellant confirmed that he had nothing further to add.
7. 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.
8. The essential basis of the Respondent's decision was that the Appellant had been provided, under two trainee licences, more than adequate time to gain sufficient experience to pass his Part 3 test and that no evidence of lost practice time had been provided by the Appellant.
9. 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.
10. 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.
11. There was little or no dispute as to the material facts of this case.
12. Accordingly, the appeal is dismissed.

Signed: *Damien McMahon*,

Tribunal Judge

Date: 30 January 2025