



Neutral citation number: [2025] UKFTT 86 (GRC)

Case Reference: FT/D/2024/0727

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

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

Decision given on: 4 February 2025

Before

JUDGE DAMIEN MCMAHON

Between

ANTONY KEVIN PETER PEANUT

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 13 August 2024 is confirmed.

REASONS

1. This appeal was listed for determination remotely, by CVP, today, at 12.00. The Appellant attended and gave oral evidence.

2. The Appellant was welcomed to the hearing, the Tribunal introduced to, its independence being emphasised, and the process explained.
3. The Appellant appealed against a decision of the Respondent dated 13 August 2024, to refuse the Appellant's application for a further, third, trainee driving instructor licence made on 5 July 2024. His grounds of appeal reiterated the representations made by him to the Respondent, in writing, on 23 July 2024. The decision of the Respondent was made, taking account of those representations, namely, that there was a delay in being offered dates for Part 3 tests, including delays due to strikes at Preston Driving Test Centre in April 2023 and February 2024; the relocation of that test centre and a test date being cancelled by the Respondent; that he had followed all ADI responsibilities; that he had a high regard for all aspects of road safety; had an excellent driving standard and instructional ability; a professional approach and a responsible attitude to the profession and pupils, achieving a pupil driving test pass rate of 75% in the two previous months (compared to an average pass rate of pupils of 56%); that he loved his job as a driving instructor; that he had just renewed his driving instructor insurance at substantial cost; that he did not wish to have wasted his time if he were not to be registered as a fully-qualified ADI and, finally, that he wanted a third trainee licence in order to become an ADI [albeit an applicant to become an ADI did not require a trainee licence at all, much less a third trainee licence, since the purpose of a trainee licence is solely to afford an ADI applicant the opportunity to gain sufficient experience, if required by him, to prepare to pass the Part 3 test and, thereby, become registered as a fully-qualified ADI].
4. The Respondent decided that 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 22 July 2023 to 21 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 the Appellant's second trainee licence remained in force until the determination of this appeal [that is, until this decision is promulgated], 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).
5. In their Response dated 9 September 2024, the Respondent advised, in addition, that the Appellant had failed his first attempt at a Part 3 test on 2 September 2024 and had a second attempt booked that was on hold pending the Appellant being offered a test date; that if the Appellant wished to further prepare to undertake a further attempt at passing a Part 3 test (up to the maximum permitted number of attempts), he could, as an alternative, undertake a training course, or study or practice with an ADI or provide unpaid tuition, alternatives for which precedents existed.

6. In his oral evidence, the Appellant confirmed his acceptance that an ADI applicant could not expect to be granted a trainee licence indefinitely and that it was not necessary to hold a trainee licence in order to take a Part 3 test and that refusal of a trainee licence was not a bar to taking a Part 3 test. However, the Appellant pointed out that he had pupils whose driving tests were pending, quite apart from the delays in getting dates to undertake Part 3 tests. He also referred to the substantial financial outlay he had incurred, and continued to incur, in being a provisional ADI, that were up-front costs, including training costs. He strongly expressed a view that if the Respondent had provided greater clarity and fully advised him as to the potential wait on his appeal being heard, he may have been able to do something in respect of such pupils. He confirmed that he had stopped taking new pupils from when the Respondent issued their decision and he had to take on a second job, suffering a 50% drop in income from driving instruction. On being asked about being willing to go to a driving test centre other than that in Preston, he pointed out that the same small, limited number of examiners covered around 14 test centres. The Appellant stated that he needed a third trainee licence to allow him to meet the interests of his existing pupils [but this could only be an issue if the Appellant declined, in the meantime at least, to provide unpaid tuition]. He also confirmed that he had failed his second attempt to pass his Part 3 test on 4 December 2024, an outcome that he intended to appeal to the Magistrates' Court, as both he and his pupil had felt stressed and harassed by an alleged harsh approach of the examiner. He confirmed, too, that a third, and final, attempt to pass his Part 3 test was booked for 4 March 2025 – approximately five weeks' time.
7. In conclusion, the Appellant again expressed the view that the Respondent should make it clear to ADI applicants what could happen process-wise.
8. 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.
9. 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.
10. 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.

11. 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.

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

13. Accordingly, the appeal is dismissed.

Signed: *Damien McMahon*,

Tribunal Judge

Date: 30 January 2025