



Neutral citation number: [2024] UKFTT 1090 (GRC)

Case Reference: FT/D/2024/0539

First-tier Tribunal
General Regulatory Chamber
Transport

Decided without a hearing

Decision given on: 11 December 2024

Before

JUDGE HAZEL OLIVER
JUDGE JONATHAN SCHERBEL-BALL

Between

MOHD SANAYEE ANWARI

Appellant

and

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

Decision: The appeal is dismissed. The Registrar's decision of 14 June 2024 is upheld.

REASONS

1. This appeal concerns a decision of the Registrar of Approved Driving Instructors ("the Registrar") made on 14 June 2024 to refuse to grant the Appellant a second trainee licence.
2. The Appellant is a trainee driving instructor who was granted a trainee licence under section 129 of the Road Traffic Act 1988 (the "Act"), for one six-month period from 27 November 2023 to 26 May 2024. He was refused a further licence. The Appellant now appeals the Registrar's decision.
3. The parties have agreed to a paper determination of the appeal. The Tribunal is satisfied that it can properly determine the issues without a hearing within rule 32(1)(b) of The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 (as amended).

The Appeal

4. The Appellant's Notice of Appeal dated 22 June 2024 relies on the following grounds:

- a. He did not have sufficient pupils and so was not initially confident to take his Part 3 test. When this was booked by his franchise after three months it was put on hold.
- b. DVSA is unable to provide the Part 3 test on time, causing him stress and anxiety.
- c. He bought a car on finance for this job and is struggling to support his family and pay the bills.

5. The Registrar's Statement of Case dated 27 September 2024 resists the appeal. The Registrar says that the Appellant 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. He had failed the instructional ability test once and cancelled four tests himself. He has not reached the required standard for qualification despite ample time and opportunity, and the refusal of a second licence does not prevent him from receiving further training or providing unpaid tuition.

The law

6. The grant of a trainee licence enables applicants to provide instruction for payment before they are qualified. The circumstances in which trainee licences may be granted are set out in section 129 of the Act and the Motor Cars (Driving Instruction) Regulations 2005.

7. A licence under section 129(1) of the Act is granted, "*for the purpose of enabling a person to acquire practical experience in giving instruction in driving motor cars with a view to undergoing such part of the examination... as consists of a practical test of ability and fitness to instruct*".

8. In order to qualify as an Approved Driving Instructor, applicants must pass the Qualifying Examination. This is made up of: the written examination (Part 1); the driving ability and fitness test (Part 2); and the instructional ability and fitness test (Part 3). Three attempts are permitted at each part. The whole examination must be completed within two years of passing Part 1, otherwise the whole examination has to be retaken.

9. A candidate may be granted a trainee licence if they have passed Part 2. However, holding a trainee licence is not necessary in order to qualify as an Approved Driving Instructor, and many people qualify without having held a trainee licence.

10. The powers of the Tribunal in determining this appeal are set out in section 131 of the Act. The Tribunal may make such order as it thinks fit (section 131(3)). The Tribunal stands in the shoes of the Registrar and takes a fresh decision on the evidence available to it, giving appropriate weight to the Registrar's decision as the person tasked by Parliament with making such decisions. The burden of proof in satisfying the Tribunal that the Registrar's decision was wrong rests with the Appellant.

The evidence

11. We have considered a bundle of evidence containing 21 numbered pages.

12. This includes evidence of the Appellant's full licence history from the Registrar. From this it appears that the Appellant has failed the Part 3 test once and has now cancelled a total of seven further test dates.

13. The Appellant provided some further representations on 14 October 2024. He says that one test was cancelled as he was not ready, but three other tests were booked and cancelled without his permission or giving him notice. He says he has been searching for a cancellation every day to find a slot, and his test was on hold.

Conclusions

14. We note that the Appellant has already had the benefit of one trainee licence covering a period of six months which is adequate to prepare for the Part 3 test. He is able to continue to gain experience and take the test without a trainee licence. It is not the purpose of trainee licences to keep renewing them until all attempts at passing Part 3 have been taken.

15. We have considered the Appellant's points of appeal. We accept that the Appellant may not have been ready to take his Part 3 test after three months. However, the initial trainee licence is for six months, which provided him with more time. We are aware that it can be difficult to book a Part 3 test slot, and appreciate that he may have invested in a car in the expectation of becoming fully qualified. It is unclear why the Appellant has had so many Part 3 test cancellations, and it appears that some of these may have been booked and cancelled by his franchise without his knowledge. Nevertheless, he had the benefit of a trainee licence for six months. It is a common misunderstanding that trainee licences should be renewed until a trainee has had an opportunity to pass Part 3. There is no entitlement to continued licences until the test has been booked and passed.

16. We also note that a second trainee licence would have expired by the time we are considering this appeal. The Appellant will have had the benefit of retaining a trainee licence pending the result of this appeal, because he applied for a second licence before his first licence expired. During this period of extended retention, the Appellant has had the opportunity to attempt his Part 3 test on 26 September 2024 (although he failed that test). The Appellant has also been able to teach throughout the period of what would have been his second trainee licence, and this Tribunal would be unable to grant a second licence for a longer period.

17. The Appellant has not persuaded us that the Registrar's decision was wrong in any way. In all the circumstances, we agree with the Registrar's decision and dismiss this appeal.

Signed: *Judge Hazel Oliver*

Date: 5 December 2024