



Neutral citation number: [2024] UKFTT 1092 (GRC)

Case Reference: FT/D/2024/0604

First-tier Tribunal
General Regulatory Chamber
Transport

Heard by: Cloud Video Platform
Heard on: 29 November 2024
Decision given on: 11 December 2024

Before

JUDGE HAZEL OLIVER
JUDGE JONATHAN SCHERBEL-BALL

Between

FAISAL MEHMMOD

Appellant

and

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

Representation:

For the Appellant: In Person
The Respondent did not attend.

Decision: The appeal is dismissed. The Registrar's decision of 10 July 2024 is upheld.

REASONS

1. This appeal concerns a decision of the Registrar of Approved Driving Instructors ("the Registrar") made on 10 July 2024 to refuse to grant the Appellant a third 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 two consecutive six-month periods, starting on 12 June 2023 and expiring on 11 June 2024. On 24 May 2024, the Appellant applied for a third licence. That application was refused by the Registrar on 10 July 2024. The Appellant now appeals the Registrar's decision.

3. The proceedings were held by video (CVP). The Appellant joined remotely. The Registrar did not attend the remote hearing. The Tribunal was satisfied that it was fair and just to conduct the hearing in this way.

The Appeal

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

- a. The Registrar did not fully take into account the significant personal circumstances that impacted upon his ability to train during that period. His wife had a third child during this period which significantly impacted upon his training as he had to support his wife and child.
- b. He has two additional children who he also had to care for during this period.
- c. Despite these challenges, the Appellant made every effort to balance his family commitments with his professional development.
- d. His situation involved significant unavoidable circumstances that were beyond his control.

5. The Registrar's Statement of Case dated 26 July 2024 resists the appeal. The Registrar says that:

- a. The purpose of the provisions governing the issue of trainee 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 an alternative to the system of registration.
- b. The licence granted is not to enable the instructor to teach for however long it takes to pass the exams but to allow a defined period of experience of instruction. Six months is ordinarily a very reasonable period in which to reach the necessary standard and in particular to obtain any necessary practical experience in tuition. The Appellant has already had two trainee licences, and by virtue of his appeal in respect of his third application, his second licence has remained in force, which allows him to continue to give paid instruction until determination of the appeal.
- c. Since passing his driving ability test, the Appellant has failed the instructional ability test. Despite ample time and opportunity the Appellant has not been able to reach the required standard of driving for qualification as an Approved Driving Instructor.
- d. The refusal of a third licence does not bar the Appellant from attempting the instructional ability test. 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 training.

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 34 numbered pages. We also heard from the Appellant at the remote hearing. The Appellant gave further details of the family circumstances which led him, on his own account, to have insufficient time to conduct sufficient training. The Appellant explained that he had moved instructional schools, and did do another Part 3 test in September 2024, but that he failed this. He explained he had been having two lessons every week with his new instructional school. His third attempt at the Part 3 test will take place on 30 January 2025. The Appellant also accepted that a third licence, if granted, would expire on 11 December 2024.

12. The Appellant's Grounds of Appeal were supported by an undated letter from the A1 Driving School in West Yorkshire which provided further explanation for the Appellant's inability to pass his Part 3 test in time. The Appellant also provided a letter from his brother-in-law, who explained how he would seek to provide the Appellant with further assistance so he could dedicate himself to training for and passing his Part 3 test.

Conclusions

13. The Appellant has already had two trainee licence periods lasting for a year. By the time of the hearing of his appeal, he has had a licence for over 17 months in total. He is able to continue to gain experience and take the Part 3 test without a trainee licence. His final Part 3 test will be in January 2025. It is not the purpose of trainee licences to keep renewing them until all attempts at passing Part 3 have been taken. There is no entitlement to continued licences until the test has been booked and passed.

14. We have considered the Appellant's points of appeal. We accept that the Appellant's family circumstances may have contributed in part to a lack of time for training. However, the Appellant has now had over 17 months of extended trainee licences to pass his Part 3 test. We consider that this is more than sufficient time. On the Appellant's own account, he has been taking regular lessons in recent months to pass his test. He can continue to take such lessons, albeit not on a paid basis with students, if he needs more practice before his final Part 3 test in January 2025.

15. We also note that a third trainee licence would only be valid for approximately a week by the time this decision is promulgated, expiring on 11 December 2024. The Appellant has therefore had the benefit of retaining a trainee licence pending the result of this appeal, because he applied for a third licence before his second licence expired. Indeed during this

period he has attempted and failed his Part 3 test for a second time. The Appellant has also been able to teach throughout the period of what would have been his third trainee licence.

16. Having carefully considered all of the evidence and circumstances, 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 Jonathan Scherbel-Ball **Date:** 9 December 2024