



NCN: [2024] UKFTT 001159 (GRC)

Case Reference: FT/D/2024/0519

**First-tier Tribunal
(General Regulatory Chamber)
Transport**

**Decided without a hearing
Decision given on: 03 January 2025**

Before

JUDGE MATON

Between

MOHAMMED ASSUM BASHIR

Appellant

and

THE REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

Decision: The appeal is Dismissed.

REASONS

1. This is an appeal against a decision of the Registrar of Approved Driving Instructors (“the Registrar”) dated 6 June 2024 not to grant a second trainee licence to the Appellant.
2. The parties agreed that the Appeal should be decided without a hearing, and the Tribunal is satisfied that this is a fair and just way to decide the Appeal. The Tribunal read and took account of a bundle of documents.

Relevant law

3. The grant of a trainee licence enables applicants to provide driving instruction for payment before they are qualified.

4. A trainee licence may be granted in the circumstances set out in s129 of the Road Traffic Act 1988 (“the Act”) and the Motor Cars (Driving Instruction) Regulations 2005.
5. A licence under s129(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.”
6. In order to qualify as for registration as an approved driving instructor, applicants must pass the Qualifying Examination. This comprises: a written examination (“Part 1”); a driving ability and fitness test (“Part 2”); and an instructional ability and fitness test (“Part 3”).
7. Three attempts are permitted at each part. The whole examination must be completed within two years of passing Part 1, failing which the whole examination has to be retaken.
8. The grant of a trainee licence enables applicants to provide instruction for payment before they are qualified. It is possible to qualify as an approved driving instructor without having held a trainee licence. Under s129(2) of the Act, the Registrar must grant a licence to an applicant who fulfils specified conditions, including that they have passed Parts 1 and 2. Under s129(3) the Registrar has discretion to refuse an application for a second or subsequent licence.
9. Under s129(6)(b), where a person applies for a new licence in substitution for a licence held by him and current at the date of the application, the previous licence will not expire if the Registrar decides to refuse the application, until the time limit for an appeal against the decision has expired and, if such an appeal is duly brought, it is finally disposed of.
10. The powers of the Tribunal in relation to appeals against decisions not to grant trainee licences are set out in s131 of the Act. When making a decision on any such appeal, 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.

Factual background

11. The Appellant was granted a trainee licence on 18 December 2023, expiring on 17 June 2024.
12. The Appellant applied for a second trainee licence, and in an email dated 21 May 2024 the Registrar advised that he was considering refusing the application, and invited the Appellant to make representations regarding this. The Appellant made representations in an email dated 22 May 2024, and the Registrar replied by email dated 6 June 2024, refusing the application.

13. In his Appeal the Appellant states that:

- a. Due to issues with his vehicle and the need to change his contract with his driving school, his training during his first trainee licence was delayed by six weeks;
- b. He nevertheless managed to complete his online and in-car training by 19 April 2024;
- c. His test – which the Tribunal assumes to be Part 3 – was, at the time of his Appeal, on hold, awaiting a test date.

14. In his Response the Registrar states that:

- a. the Appellant failed to comply with the conditions of his first licence, having not completed all of his training objectives within the first three months of the licence period;
- b. the Appellant has provided no evidence regarding his vehicle issues;
- c. the start date of the trainee licence was as requested by the Appellant;
- d. the purpose of the provisions governing the issue of 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 and must not be allowed to become an alternative to the system of registration;
- e. the licence granted to applicants is not to enable the instructor to teach for however long it takes to pass the examinations, but to allow up to six months experience of instruction; that this provides a very reasonable period in which to reach the qualifying standard in the examination and in particular, to obtain any necessary practical experience in tuition; moreover, by virtue of the Appellant having applied for a second licence before the expiry date of the first, that licence remained in force and would allow him to continue to give paid instruction until determination of the Appeal;
- f. since passing his driving ability test the Appellant has not taken the instructional ability test; and that despite ample time and opportunity, the Appellant has not been able to reach the required standard for qualification as an approved driving instructor;
- g. the refusal of a second licence does not bar the Appellant from attempting Part 3; 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 further training; and that alternatives are available to acquire registration without obtaining a licence.

Discussion and conclusion

15. The Appellant has submitted evidence that he has made efforts to further his training, and has taken the necessary steps when he has needed to do so.
16. The Tribunal has not seen evidence of the unforeseen issues with the Appellant's vehicle, which he indicates required a change to his contract and a led to a delay of six weeks. Without that evidence the Tribunal cannot form a view on, for example, whether or not the issues are matters which ought to have been within the Appellant's control, or how they might have been resolved.
17. Despite any initial delay the Appellant has had ample time to attempt Part 3. In any event, as the Registrar submits, the licence is not granted for however long it takes for an instructor to pass the test, and holding a licence is not necessary in order to take the test.
18. Having considered the parties' submissions and the matters set out above, the Tribunal is not persuaded that the Registrar's decision was wrong, and the Appeal is dismissed.

Signed

Tribunal Judge Maton

Promulgated

Date:

30 December 2024

03 January 2025