



Neutral citation number: **[2024] UKFTT 00556 (GRC)**

Case Reference: D/2024/0130

First-tier Tribunal

**General Regulatory Chamber
Transport**

**Determined on the
Papers on 19th June 2024**

Before

HHJ DAVID DIXON

Between

JEETENDRA KERAI

and

**THE REGISTRAR OF APPROVED
DRIVING INSTRUCTORS**

Appellant

Respondent

Decision: The appeal is dismissed, with immediate effect.

REASONS

Background to Appeal

1. This appeal concerns a decision of the Registrar of Approved Driving Instructors (“the Registrar”) made 24th January 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 s.129 of the Road Traffic Act 1988¹ (‘the Act’) for a six-month period, and then another, but was refused a further licence at the end of the relevant period.
3. The Registrar’s reasons for refusal, in summary, were that the Appellant had not passed the final part of the ADI qualifying examination within the relevant period and as insufficient evidence of loss of training time was supplied that the Appellant had had long enough to progress, and the application to issue a third trainee licence was therefore refused.
4. The Appellant now appeals the Registrar’s decision.

Appeal to the Tribunal

5. The Appellant’s Notice of Appeal, 5th February 2024, indicates he simply not been able to book a test slot. The lack of slots meant that he has found it difficult to get through the process. He asks for a further licence to allow him to attempt his Part 3.
6. The Registrar provided a response indicating the Appellant had been licensed since November 2022. The Registrar indicated that in his view the Appellant had had long enough to train and that no basis was shown to grant a third licence.

Mode of Determination

7. The Appeal was listed for oral determination and the case was listed via the CVP system.
8. The Appellant failed to attend. The Respondent was represented by Ms Claire Jackson of the appeals team.
9. The Appellant had sought to adjourn the hearing due to a dental appointment and a pupil had a driving test. The Tribunal considered those matters with care and decided that the Appeal took precedence and refused to adjourn the hearing. There was no suggestion of overwhelming pain, in fact it sounded like a routine dental check-up, and another person could assist the pupil if required in any event. Neither of the suggested reasons justified a delay, particularly bearing in mind the delay between the Notice of Appeal and the hearing, and the 2 year termination date that is rapidly approaching. In the interests of justice applying the Tribunal Rules a hearing was required. As a result the Tribunal determined the case on the papers.
10. The Tribunal considered a bundle of evidence containing 24 pages.

¹ <http://www.legislation.gov.uk/ukpga/1988/52/part/V/crossheading/licences>

The Law

11. 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 s. 129 of the Act and the Motor Cars (Driving Instruction) Regulations 2005².
12. 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’.
13. In order to qualify as an Approved Driving Instructor, applicants must pass the Qualifying Examination. This comprises: 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 2 years of passing Part 1, failing which the whole examination has to be retaken.
14. If a candidate has passed part 2, they may be granted a trainee licence. However, holding a trainee licence is not a prerequisite to qualification as an Approved Driving Instructor and many people qualify as an Approved Driving Instructor without having held a trainee licence.
15. The powers of the Tribunal in determining this appeal are set out in s. 131 of the Act. The Tribunal may make such order as it thinks fit.
16. When making its Decision, the Tribunal stands in the shoes of the Registrar of approved Driving Instructors and takes a fresh decision on the evidence available to it, giving appropriate weight to the Registrar’s decision³ 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.

Conclusion

17. The Tribunal considered carefully all the papers before it.
18. In fixing a period of 6 month to allow for trainee instructors to progress Parliament must have had in mind that we are all subject to differing life events that affect our ability to undertake certain tasks. Sometimes those events are so unusual or have such a bearing on an individual that it will be entirely appropriate to find that a longer than normal period of time should be allowed to complete a task. Here the Appellant has indicated that there were real issues with booking a test slot, not that there was any loss of training opportunity.
19. He has now been licensed for some 20 months already, with the sole issue raised being difficulties in booking tests. I’m afraid I take the view that the Appellant has had more than

² http://www.legislation.gov.uk/uksi/2005/1902/pdfs/uksi_20051902_en.pdf

³ See *R (Hope and Glory Public House Limited) v City of Westminster Magistrates’ Court* [2011] EWCA Civ 31. <http://www.bailii.org/ew/cases/EWCA/Civ/2011/31.html>. Approved by the Supreme Court in *Hesham Ali (Iraq) v Secretary of State for the Home Department* [2016] UKSC 60 at paragraph 45 – see <https://www.supremecourt.uk/cases/docs/uksc-2015-0126-judgment.pdf>.

long enough to train and the Appeal must fail. A third licence would have been used and gone by now, so there is no purpose in the application.

20. Accordingly I dismiss the appeal with immediate effect.
21. The Appellant is still able to attempt his Part 3 if he wishes to, and the Tribunal him well if he so chooses, although the Tribunal notes the 2 year limit expire in a few months.

(Signed)

HHJ David Dixon

DATE: 19th June 2024