



Case Reference: D-2024-89

NCN: [2024] UKFTT 00559 (GRC)

First-tier Tribunal  
General Regulatory Chamber  
Transport

Heard on: 26 June 2024  
Decision given on: 28 June 2024

Before

TRIBUNAL JUDGE SOPHIE BUCKLEY

Between

KATE ROWLANDS

Appellant

and

REGISTRAR FOR APPROVED DRIVING INSTRUCTORS

Respondent

**Decision:** The appeal is dismissed.

## REASONS

### Introduction

1. This is an appeal against a decision of the Registrar of Approved Driving Instructors ('the Registrar') made on 10 January 2024 to refuse to grant the Appellant a third trainee licence.

## **Legal framework**

2. The grant of a trainee licence enables applicants to provide instruction for payment before they are qualified.
3. A trainee licence may be granted in the circumstances set out in s. 129 of the Road Traffic Act 1988 ('the Act') and the Motor Cars (Driving Instruction) Regulations 2005.
4. 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.'*

5. 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').
6. 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.
7. If a candidate has passed Part 2, they may be granted a trainee licence. 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.
8. 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.
9. When making its Decision, 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.

## **Factual background to the appeal**

10. The Appellant passed Part 1 on 24 August 2022. She passed Part 2 on 7 October 2022. She booked and cancelled a Part 3 test that was supposed to take place on 5 April 2023. The Appellant explained in the hearing that this was because she had booked the wrong test centre in error. On 24 January 2023 she booked and paid for a Part 2 test and was placed on 'hold'. On 16 March 2023 she was sent a booking confirmation for her Part 3 test to take place on 7 June 2023. She failed the first attempt on 7 June 2023.
11. The appellant booked a second attempt at part 3 for 14 July 2023, but cancelled this after a discussion with her trainer, who suggested it might be sensible to leave it a bit longer before attempting the test again. On 3 July 2023 she booked and paid for a second attempt and was placed on hold. She received a booked confirmation on 13 July 2023 for a Part 3 test on 6 October 2023. She failed the second attempt on 6 October 2023.

12. On 24 October she booked and paid for her third attempt at Part 3 and was placed on 'hold'. She was sent a booking confirmation on 23 November 2023 for a test on 20 December 2023. She cancelled that test because she was booked to go abroad over Christmas. She was placed back on hold and received an email on 5 December 2023 confirming that the test would be 1 March 2024. The DVSA cancelled the Part 3 test which was booked for 1 March 2024 and a further Part 3 test which the Appellant booked for 14 May 2023. The Appellant now has a further Part 3 test booked for 15 July 2024.
13. The Appellant applied for two trainee licences which were granted and were valid from 14 December 2022 to 13 December 2023.
14. On 2 December 2023, the Appellant applied for a third trainee licence. As the Appellant applied before the licence expired, this means that, at the date of the hearing, the Appellant had been the beneficiary of a trainee licence for over 18 months.
15. The reasons for the Registrar's decision, in summary, were that the Appellant had provided no evidence of lost training and has already been granted two training licences which was considered to be a more than adequate period of time to gain sufficient experience to pass Part 3.

### **Appeal to the Tribunal**

16. The grounds of appeal are, in summary, that the Appellant did everything she could to get test dates within the previous two trainee licences but due to waiting lists outside her control she has not been able to.
17. The Registrar, in his response, states that the Appellant provides no evidence of lost training time or a lack of pupils and has had the benefit of two trainee licences for twelve months. The Appellant cites a problem getting part three test dates but has cancelled three herself.
18. The Registrar submits that:
  - 18.1. 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.
  - 18.2. 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. 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 third licence before the expiry date of the second, that licence has remained in force to the present time and will allow her to continue to give paid instruction until determination of the appeal.
  - 18.3. Since passing her driving ability test the Appellant has failed the instructional ability test and cancelled three tests booked for 5 April, 14 July and 20 December

2023. DVSA cancelled one such test booked for 1 March 2024. Despite ample time and opportunity the Appellant has not been able to reach the required standard for qualification as an Approved Driving Instructor.

- 18.4. The refusal of a third licence does not bar the Appellant from attempting the instructional ability test of the Register examinations. She does not need to hold a licence for that purpose, nor is it essential for her to give professional tuition under licence in order to obtain further training. The Appellant could attend a training course, or study and practice with an Approved Driving Instructor or give tuition on her own (provided that he does not receive payment of any kind for this). These alternatives are used by some trainees who acquire registration without obtaining any licences at all.

### **Evidence**

19. I read and took account of a bundle of documents and I heard oral evidence from the Appellant and submissions from both parties.

### **Discussion and conclusions**

20. I have considered carefully all the evidence before me.
21. I accept that it is unfortunate that a number of booked Part 3 test have been cancelled by the DVSA. The Appellant has also cancelled three tests. Whilst the reasons for cancelling those tests are understandable, this has clearly contributed to the time that it has taken to get her third attempt arranged.
22. In any event, I note that the Appellant has already had the benefit of two trainee licences covering a period of 12 months. This should have been adequate time to prepare. Further I note that the Appellant has had the benefit of a further period of over 6 months up to today.
23. The overall period in which the Appellant has been able to give driving instruction should have provided a reasonable opportunity to obtain the practical experience envisaged by the Act.
24. The Appellant can continue to study and practice and is able to continue to gain experience and take the test without a trainee licence.
25. The trainee license is not a substitute for taking and passing the test. It is not the purpose of trainee licences to keep renewing them until all attempts at passing Part 3 have been taken.
26. Having weighed all matters in the balance, the Appellant has not persuaded me that the Registrar's decision was wrong in any way. In all the circumstances, I agree with the Registrar's decision and the appeal is dismissed.

Signed Sophie Buckley

Date: 26 June 2024

Judge of the First-tier Tribunal