



Neutral citation: NCN [2024] UKFTT 606 (GRC).

First-tier Tribunal  
(General Regulatory Chamber)  
Transport

Appeal Number: D/2024/71

Determined on the papers  
On 9 July 2024

Decision given on 10 July 2024

Before

JUDGE OF THE FIRST-TIER TRIBUNAL J K SWANEY

Between

ZOLTAN KAZINCZI-NAGY

Appellant

and

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

### Representation

Appellant: In person  
Respondent: Ms C Jackson

### DECISION

1. The appeal is dismissed.

### REASONS

#### Background

2. The appellant appeals against the decision made by the Registrar of Approved Driving Instructors (the Registrar) on 3 January 2024 to refuse his application for a trainee licence.
3. The appellant applied for and was granted a trainee licence valid from 15 May 2023 to 14 November 2023. On 3 November 2023 he applied for a second trainee licence.

4. On 22 November 2023 the respondent notified the appellant that consideration was being given to refusing his application and invited him to make representations. In addition, the respondent notified the appellant that he had failed to return a completed form ADI 21AT. He was advised that it was a condition of his licence to complete a minimum of 20 hours of additional training delivered by an approved driving instructor (ADI) and that it was unlikely that he would be granted a further licence if he had not complied with that condition. The appellant was also advised that it was not necessary to hold a trainee licence in order to sit the part 3 exam.
5. The appellant made representations on 4 December 2023 stating that he had been unable to use his licence for a period of six weeks because he had been abroad arranging long term care for a family member. He did not address the failure to complete the ADI 21AT.

### **The respondent's decision**

6. The respondent gave the following reasons for the decision made on 3 January 2024:
  - (i) The appellant failed to comply with the conditions of his first trainee licence.
  - (ii) The appellant failed to provide any evidence of lost training time.
  - (iii) Parliament's intention was not to licence candidates for as long as it takes them to pass the examination.
  - (iv) The trainee licence must not become an alternative to registration as a fully qualified Approved Driving Instructor (ADI).

### **The appellant's case**

7. The appellant lodged a notice of appeal dated 15 January 2024.
8. In his grounds of appeal the appellant reiterated that he was abroad arranging care for a family member and unable to use his trainee licence. He stated that he was working for just over four of the six months, which was insufficient time to take the part 3 exam. He provided what he states is evidence of payment of franchise fees to BSM during this period.
9. The appellant noted that he had a part 3 test booked for 10 January 2024, but which was cancelled by the DVSA and re-booked for 4 April 2024.
10. The appellant asserts that the loss of his licence and the ability to teach would end his opportunity to become a qualified authorised driving instructor (ADI).

### **The appeal**

11. The appeal was heard remotely. Ms Jackson and I joined by video and the appellant joined by telephone. There were no objections to that being a suitable method of hearing. The appellant gave evidence and I heard submissions from both parties. I

considered the oral evidence and submissions together with the documents contained in the appeal bundle in reaching my decision. The appellant confirmed that he had received the appeal bundle.

### **The law**

12. The circumstances in which a person may be granted a trainee licence are set out in section 129 of the Road Traffic Act 1998 (the Act) and the Motor Cars (Driving Instruction) Regulations 2005 (the Regulations).
13. Pursuant to regulation 3, the qualifying examination consists of three parts: a written examination (part 1); a driving ability and fitness test (part 2); and an instructional ability and fitness test (part 3).
14. A candidate is permitted three attempts at each part. The whole examination must be completed within two years of passing part 1, failing which the candidate must retake the whole examination. Once a candidate has passed part 2 they may be granted a trainee licence.
15. The purpose of the trainee licence is to enable a person to acquire practical experience in giving instruction in driving motor cars with a view to undergoing such part of the examination referred to in section 125(3)(a) as consists of a practical test of ability and fitness to instruct, which is part of the qualifying examination to become an Approved Driving Instructor (ADI).
16. The appellant has a right of appeal against the respondent's decision pursuant to section 131 of the Act. On appeal the tribunal may make such order as it thinks fit.
17. It is for the appellant to show on the balance of probabilities that the respondent's decision was wrong.

### **Findings and reasons**

18. In his grounds of appeal the appellant failed to deal with the respondent's assertion that he had failed to comply with the conditions of his first trainee licence. The respondent asserted that he had failed to provide evidence of having completed the additional training requirements within the first three months of his trainee licence. The requirement is that the further training requirement must be completed within the first three months of the trainee licence or before sitting the part 3 exam, whichever is sooner.
19. In his oral evidence the appellant accepted that he had failed to comply with the requirement. He explained that he completed the required in-car training, but had not booked the online training. He said that by the time he realised, there was no availability and he was unable to complete the required training within the time for doing so. He accepted that this was his error, but that he did not appreciate that it would be a significant problem.

20. The evidence before me shows that the appellant did subsequently complete the additional training requirements on 19 November 2023. This is after the first three months of his trainee licence. I find that the appellant failed to comply with the further training condition of his trainee licence.
21. I accept that the DVSA cancelled one examination booking. The test was re-booked, and the appellant advised in his oral evidence that he failed. He stated that he now has a confirmed booking for 23 September 2024 to sit the part 3 test.
22. Holding a trainee licence is not a prerequisite to qualifying as an ADI and nor is it a prerequisite to sitting part 3 of the examination. The appellant confirmed that he is aware of this. Aside from giving professional instruction under a trainee licence, there are other ways in which the appellant could gain the skills needed to pass part 3. For example, he could attend a training course; study and practice with an ADI; or give tuition on his own as long as he does not receive payment for such tuition. These are alternatives which mean that some trainees obtain pass the qualifying examination and obtain registration without ever having held a trainee licence.
23. When asked, the appellant stated that instructing is his sole source of income and that he simply cannot afford to give instruction without asking for payment.
24. The appellant had the benefit of one trainee licence for a period of six months. In addition, because his application for a second licence was made before the expiry of the first, he has had the benefit of an additional period of eight months while his appeal has been pending. This is in excess of the six months he sought. The appellant confirmed in his oral evidence that he believes that he is ready to sit the part 3 test and that he is capable of passing. The appellant has a test date and a trainee licence is not required for him to sit the test.
25. The appellant failed to comply with the further training condition of his trainee licence. In addition, based on what is set out above, he has failed to show that a further licence is necessary to enable him to prepare for the part 3 test.
26. For all of these reasons, I find that the respondent's decision to refuse to grant a second trainee licence was correct and I dismiss the appeal.

Signed *J K Swaney*

Date 9 July 2024

Judge J K Swaney  
Judge of the First-tier Tribunal