



Neutral citation number: [2024] UKFTT 626 (GRC)

Case Reference: FT/D/2024/0235

**FIRST-TIER TRIBUNAL  
GENERAL REGULATORY CHAMBER  
(TRANSPORT)**

**Heard by Cloud Video Platform  
On: 16 July 2024**

**Decision given on: 23 July 2024**

**Before**

**JUDGE DAMIEN MCMAHON**

**Between**

**TRACY LINDSAY**

Appellant

**-and-**

**REGISTRAR OF APPROVED DRIVING INSTRUCTORS**

Respondent

**Representation:**

For the Appellant: The Appellant appeared on her own behalf.

For the Respondent: Clare Jackson

**Decision:**

The appeal is Dismissed. The Decision of the Respondent made on 28 February 2024 is confirmed.

**REASONS**

1. This appeal concerns a decision of the Registrar of Approved Driving Instructors (“the Registrar”) made on 28 February 2024 to refuse to grant the Appellant a third trainee licence.
2. The Appellant is trainee driving instructor who had been granted two trainee licences

pursuant to s.129 of the Road Traffic Act 1988 ('the Act') for the period from 9 February 2023 to 8 February 2024 September 2022 to 8 February 2024 (a total of 12 months) but was refused a further trainee licence.

3. The Respondent's reasons for refusal of a third trainee licence, in summary, were that the Appellant has already had time to gain sufficient experience to pass the final part of the Approved Driving Instructor ('ADI') qualifying examination.
4. The Appellant, on 11 March 2024, appealed the Respondent's said decision.
5. Both parties requested a hearing that was conducted today by CVP.
6. The Appellant's Notice of Appeal relied on difficulties she had getting an appointment locally to undertake her Part 3 test (driving instructional ability), compounded by her inability to attend booked appointments due to health problems of both her and her child; appointments being cancelled by the Respondent and she failing her Part 3 test on one occasion. It emerged, in the course of the hearing, that the Appellant was contractually bound by her employer, the British School of Motoring, to hold a trainee licence until such times as she succeeded in passing her Part 3 test. This was not something that the Tribunal could take into account, being a private law matter, in determining this appeal and applying the public law involved. Nevertheless, the Appellant stated, in her written and oral evidence, that she wanted a third trainee licence in order to take her Part 3 test. She confirmed in her oral evidence that, once she passed her Part 3 test and became an Approved Driving Instructor entered into the Register, she would be the sole earner in her family.
7. The written Response of the Respondent, dated 22 April 2024, relied on the fact that the purpose of the trainee licence was to enable an ADI applicant to gain experience of teaching pupils for payment, but was not intended that a trainee licence should be held for however long it took the ADI applicant to pass the Part 3 test. The representations made by the Appellant were noted by the Respondent, as was the fact that the Appellant had failed the instructional ability test once and had cancelled other appointments, with the Respondent also cancelling appointments. It was also noted in both the written evidence of the Respondent and in the oral evidence and submissions of its representative, that a trainee licence cannot be permitted to be an alternative to the system of registration as an ADI; that since the Appellant had applied for a third trainee licence before the expiry of her second trainee licence, the second trainee licence remained in force until the determination of this appeal (that is, a period of almost 18 months). The Respondent submitted that this was adequate time for the Appellant to gain the necessary practical tuition experience to reach the qualifying standard in the Part 3 test. The Respondent further submitted, correctly, that the refusal of the Appellant's application for a third trainee licence, was not a bar to her attempting the Part 3 test again; that she did not need a trainee licence for that purpose and that it was not essential for her to give professional tuition under a trainee licence to obtain further training in professional driving tuition; indeed, some registered ADIs never held a trainee licence. Finally, the Respondent advised that the Appellant had not yet booked a second Part 3 test appointment.
8. The Tribunal considered a bundle containing 19 pages.

9. The grant of a trainee licence enables applicants to provide driving instruction for payment before they are qualified to be an ADI and entered onto the Register. 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 2005 ('the Regulations').
10. 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'.***
11. In order to qualify as an ADI, 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.
12. 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 ADI and many people qualify as an ADI without having held a trainee licence.
13. 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.
14. When making its Decision, the Tribunal stands in the shoes of the Respondent and takes a fresh decision on the evidence available to it, giving appropriate weight to the Respondent'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.
15. The parties did not file any witness statements. I have seen the Appellant's test history; her application for the two trainee licences previously granted and the correspondence between the parties.
16. I have considered carefully all the papers before me. I note that the Appellant has already had the benefit of two trainee licences covering a period of 12 months (in practical terms, almost 18 months until determination of this appeal) which is adequate to prepare for the Part 3 test. She is able to continue to gain experience and take the test without a trainee licence, and it 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. While I accept that the Appellant has had certain difficulties in arranging another Part 3 test and is under certain contractual obligations with her employer affecting an obligation to have a trainee licence until she passes her Part 3 test and is entered onto the Register as an ADI, those are not matters that can be taken into account to allow this appeal.
17. The Appellant has not persuaded me that the Registrar's decision was wrong in any way.

18. Accordingly, the appeal is dismissed.

Signed: *Damien McMahon,*

**Tribunal Judge**

**Date: 16 July 2024**

**Promulgated on: 23 July 2024**