



Neutral citation number: [2024] UKFTT 646 (GRC)

Case Reference: D/2024/276

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

Heard on: 15 July 2024

Decision given on: 2 September 2024

Before

Tribunal Judge A. Marks CBE

Between

DANIEL CONSTANTINESCU

Appellant

and

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

Representation:

For the Appellant: did not attend and was not represented

For the Respondent: Ms Claire Jackson

Decision: The appeal is dismissed

REASONS

1. This appeal concerns a decision of the Registrar of Approved Driving Instructors ("the Registrar") made on 13 March 2024 to refuse to grant the Appellant a third trainee licence.

2. The Appellant is trainee driving instructor who was granted a trainee licence under s.129 of the Road Traffic Act 1988 ('the Act'), for two six-month periods - the first from 31 January 2023 and the second from 30 July 2023. He was refused a further licence. The Appellant now appeals the Registrar's decision.

3. The matter was listed for hearing today but the Appellant did not attend. When telephoned by the Hearing Clerk a few minutes after the hearing was due to start, the Appellant said that he would not be attending. He did not give any reason for his non-attendance, nor did he request an adjournment or object to the matter proceeding in his absence.

4. On the basis of the evidence before me, I am satisfied that the Appellant:

- (a) was properly notified of the hearing;
- (b) was clearly aware of the time and date of the hearing;
- (c) has given no reason for not attending the hearing at the scheduled time and date; and
- (d) has given no indication that he would attend the hearing were it adjourned.

5. I note that the Appellant's second Trainee Licence - which would otherwise have expired in January 2024 - continues until this appeal is determined.

6. I therefore judge that it is in the interests of justice to proceed in the Appellant's absence in accordance with Rule 36 of The Tribunal Procedure (First-tier Tribunal) General Regulatory Chamber) Rules 2009.

7. At the hearing, I asked Ms Jackson for an update on the Appellant's Part 3 test scheduled for 12 June 2024. Ms Jackson informed me that the Appellant had cancelled that test and, rather than rescheduling it for another date, had asked for a refund of the fee he had paid. The Appellant gave no reason for cancelling the test nor has he made any attempt to book another test although there are Part 3 test dates available.

The Appeal

8. The Appellant's Notice of Appeal dated 21 March 2024 gives as reasons for his appeal that the decision not to issue him with a third trainee licence was '*not fair*' because he has '*invested lot of time and money into this career*'. He went on to say that he had been '*on hold*' for a Part 3 test since December 2023 and if he did not get a third trainee licence, he would '*have to stop suddenly*' and '*all my work was for nothing*'.

9. The Registrar's Statement of Case dated 23 April 2024 opposes the appeal. The Registrar says that the application was refused because the Appellant has provided no evidence of lost training time or a lack of pupils and has had the benefit of two trainee licences for twelve months. It was pointed out that the Appellant had a final attempt at Part 3 (instructional ability) test booked for 12 June 2024.

The law

10. The grant of a so-called trainee licence enables applicants to provide instruction for payment before they are qualified. The circumstances in which such licences may

be granted are set out in section 129 of the Act and the Motor Cars (Driving Instruction) Regulations 2005.

11. 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”*.

12. In order to qualify as an Approved Driving Instructor, applicants must pass the Qualifying Examination. This is made up of: 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 two years of passing Part 1, otherwise the whole examination has to be retaken.

13. A candidate may be granted a trainee licence if they have passed Part 2. However, holding a trainee licence is not necessary to qualify as an Approved Driving Instructor, and many people qualify without having held a trainee licence.

14. The powers of the Tribunal in determining this appeal are set out in section 131 of the Act. The Tribunal may make such order as it thinks fit (section 131(3)). 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.

15. The Appellant bears the burden of proof in satisfying the Tribunal that the Registrar’s decision was wrong.

The evidence

16. I have considered a bundle of evidence containing 20 pages and the further information provided orally at the hearing by Ms Jackson on behalf of the Registrar.

17. The bundle includes evidence of the Appellant’s full test results history. From this it appears that the Appellant failed his Part 3 test on 8 June 2023 and again on 3 October 2023.

18. Ms Jackson on behalf of the Registrar confirmed that the Appellant had booked – and then cancelled without giving a reason or re-booking a new date – a third and final attempt at Part 3 test on 12 June 2024.

Conclusions

19. I note that the Appellant has already had the benefit of two trainee licences covering a period of 12 months. As noted by the Registrar, this is ample time and opportunity to reach the required standard for qualification, even if there are delays in being able to take the actual test.

20. Further, the Appellant has been able to continue to gain experience for almost as long as a third trainee licence would have provided because the fact he has appealed means that his second licence has continued until now.

21. Finally, the Appellant can re-take the Part 3 test **without** a trainee licence. It is a common misunderstanding that trainee licences should be renewed until a trainee has had an opportunity to pass Part 3. However, it is not the purpose of trainee licences to keep renewing them until all attempts at passing Part 3 have been taken.

22. In this case, the Appellant has had nearly 18 months to prepare and practise for the Part 3 test and has provided no basis at all to justify grant to him of a further trainee licence. He has not suggested that he has lost any training time, experienced any shortage of pupils with whom to practise, nor suffered any other unusual circumstances.

23. 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. I now dismiss this appeal.

Alexandra Marks CBE

**Recorder, sitting as a Judge of the First-tier
Tribunal**

Dated: 15 July 2024