



NCN [2024] UKFTT 00763 (GRC).

Case Reference: FT/D/2024/0294

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

**Heard by Cloud Video Platform
On: 14 August 2024**

Decision given on: 27 August 2024

Before

JUDGE DAMIEN MCMAHON

Between

DANE BENTLEY

Appellant

-and-

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

Representation:

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

For the Respondent: Clare Jackson

Decision:

The appeal is Dismissed. The Decision of the Respondent made by the Respondent on 19 March 2024 is confirmed.

REASONS

1. This appeal was listed for remote oral hearing by CVP on 14 August 2024, a mode of hearing agreed by the parties (albeit, the Appellant was unable to utilise a camera facility). The Appellant attended and gave oral evidence and made oral submissions, as did the representative of the Respondent.
2. The Appellant appealed against a decision of the Respondent dated 19 March 2024, to refuse the Appellant's application for a further, and third, trainee driving instructor licence made on 1 March 2024. The decision of the Respondent was made, taking account of representations made by the Appellant on 6 March 2024 on the grounds that the Appellant had been granted two trainee licences, covering a period of 12 months in total, to gain sufficient experience to pass his Part 3 (instructional ability) test, a time considered to be more than adequate for that purpose. The Respondent also maintained, in making their decision, that it was not the intention of Parliament that Approved Driving Instructor ('ADI') candidates be issued trainee licences for however long it might take them to pass their Part 3 test and that the trainee licence system could not be allowed to become an alternative to registration as a fully-qualified ADI; that refusal of the Appellant's application did not prevent him undertaking a Part 3 test (subject to there being a maximum permitted number of attempts) and that the Appellant's existing second trainee licence remained valid until determination of this appeal (as his application for a third trainee licence had been made before the expiry of his second trainee licence), providing him with a total trainee licence period of almost 17 months.
3. The Appellant submitted an appeal on 25 March 2024 against the Respondent's said decision on the following grounds:
 - that he had failed his first attempt to pass his Part 3 test;
 - that he had immediately applied for another attempt but experienced difficulties in getting an appointment date;
 - that he was running a small business [his driving school] and relied on his integrity and ability to provide tuition to pupils and provide them with a vehicle, they having waited months for their own test date and were potentially ready to undertake their test;
 - that without another trainee licence, his motor insurance would be invalidated.
4. The Appellant also submitted a written statement dated 25 March 2024; a written request for a Tribunal direction dated 29 May 2024 and a Reply, also dated 29 May 2024, to the Response filed by the Respondent. This additional written evidence essentially reiterated the contents of his appeal document.
5. In his oral evidence, the Appellant stated that his motor insurers had confirmed in writing that he needed an *actual* trainee licence, but that he was aware that his existing, second, trainee licence remained valid until the determination of this appeal. He confirmed that he had cancelled four appointment dates to undertake another Part 3 test as the locations, not being in his local area, were not suitable. He stated that he was still attempting to make alternative arrangements to enable him to undertake his second attempt to pass his Part 3 test next week.

6. The Respondent, in their Response dated 10 May 2024, in addition to the submissions made in the decision under appeal, stated:
 - that two trainee licences had been granted to the Appellant covering the period 27 February 2023 to 26 August 2023 and 26 September 2023 to 25 March 2024 (a total of 12 months that was a very reasonable period in which to reach the ADI qualifying standard and, in particular, to obtain any practical experience in providing driving tuition);
 - that the Appellant had now failed his Part 3 test twice;
 - that there was no evidence of lost training time or a lack of pupils;
 - that the Appellant had, at the date of the Response, cancelled three (now four at the date of this appeal) appointment dates to undertake a Part 3 test;
7. In her oral submissions, the Respondent's representative reiterated the written submissions of the Respondent and added that the issue of pupils of the Appellant awaiting to undertake driving tests in a vehicle provided by him was of no relevance to the decision under appeal. She also emphasised that the Appellant did not, in fact, *require* to have a further (or any) trainee licence to undertake qualification as an ADI – that there were other ways of gaining experience if necessary.
8. This appeal concerns a decision of the Respondent to refuse the Appellant's application for a further ADI trainee licence. The powers of the Tribunal in determining this appeal are set out in s.131 of the Road Traffic Act 1988 ('the Act'). In determining the appeal, the Tribunal may make such order as it thinks fit, standing in the shoes of the Respondent, considering the decision afresh on the evidence available to it, giving appropriate weight to the Respondent's The burden of proof in satisfying the Tribunal that the Respondent's decision was wrong rests with the Appellant.
9. The basis of the Respondent's decision was that the Appellant had been provided, under two trainee licences, more than adequate time to gain sufficient experience to pas his Part3 test.
10. An appeal to this Tribunal against the Respondent's decision proceeds as an appeal by way of re-hearing, that is, the Tribunal makes a fresh decision on the evidence before it. The Tribunal must give such weight as it considers appropriate to the Respondent's reasons for its decision as the Respondent is the regulatory authority tasked by Parliament with making such decisions. The Tribunal does not conduct a procedural review of the Respondent's decision-making process.
11. In reaching my decision I have taken into account all of the evidence and submissions that I received, written and oral, and considered all of the circumstances relevant to this appeal.
12. There was little or no dispute as to the material facts of this case at the hearing.

13. Accordingly, the appeal is dismissed.

Signed: ***Damien McMahon,***

Tribunal Judge

Date: 14 August 2024