



Neutral citation number: [2024] UKFTT 00822 (GRC)

Case Reference: FT/D/2024/0187

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

**Heard by Cloud Video Platform
On: 11 September 2024**

Decision given on 13 September 2024

Before

JUDGE DAMIEN MCMAHON

Between

MAHMOOD AWAN

Appellant

-and-

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

Representation:

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

For the Respondent: Claire Jackson

Decision:

The appeal is Dismissed. The Decision of the Respondent made by the Respondent on 14 February is confirmed.

REASONS

1. This appeal was listed for remote oral hearing by CVP on 11 September 2024, as directed by the GRC Registrar in Case management Directions dated 12 July 2024, following a Case Management Hearing on that date. 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 14 February 2024, to refuse the Appellant's application for a second trainee driving instructor licence made on 25 January 2024. The decision of the Respondent was made, taking account of representations made by the Appellant on 30 January 2024, namely, that he had lost training time due to a shoulder injury and having childcare responsibilities, on the grounds that the Appellant had failed to meet his training obligations within the first three months of being issued with his first trainee licence. 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); that it was not necessary to hold a trainee licence to undertake a Part 3 test and that the Appellant's existing first trainee licence remained valid until determination of this appeal (as his application for a second trainee licence had been made before the expiry of his first trainee licence), providing him with a total trainee licence period of over 13 months and that, in granting the Appellant his first trainee licence, for six months, the Respondent submitted the Appellant had been granted a very reasonable period to reach the instructional ability qualifying standard and, in particular, to obtain any necessary practical experience in driving instruction to pass his instructional ability test (that is, his Part 3 test). The Respondent also submitted that the medical evidence adduced by the Appellant in support of his appeal was in respect of a period after his existing trainee licence had expired.
3. In oral submissions, the Respondent's representative also submitted that if the Appellant had been unable to complete his required training, he should have surrendered his existing trainee licence and, when ready, make application for a fresh trainee licence, an application that would have been looked upon more favourably by the Respondent in those circumstances.
4. The Respondent's representative accepted that the Appellant had now completed his required training, albeit late, and that the Appellant's second attempt at a Part 3 test was booked for 23 September 2024 (he having failed his first attempt on 10 June 2024).
5. The Appellant submitted an appeal on 26 February 2024 against the Respondent's said decision on the following grounds:
 - that he had, albeit late, completed his required training on 18 January 2024;
 - that he needed a second trainee licence to 'apply and polish skills recently learned' in order to practically apply those skills;

- that he was unable to work regularly due to health problems in respect of which he provided medical evidence but for a period after expiry of his existing trainee licence in respect of which he continued to receive treatment and medication;
- That he needed to have a trainee licence to have a pupil accompany him to his Part 3 test;
- that his circumstances were unique.

6. In his oral evidence, the Appellant accepted that he could teach a friend or family member but for no payment, in kind or otherwise, but felt he could learn better with a paying pupil. The Appellant wrongly stated his belief that he required a trainee licence and to be paid to teach as he had no other job. The Appellant submitted that the Respondent had failed to 'give [me] three chances' to undertake his Part 3 test. However, this was not an issue since holding a trainee licence was not required to undertake a Part 3 test subject to a maximum of three attempts.
7. 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 reasons. The burden of proof in satisfying the Tribunal that the Respondent's decision was wrong rests with the Appellant.
8. The Respondent's representative also submitted that since, in effect, the Appellant had the benefit of a trainee licence for 13 months in total up until the date of the hearing of this appeal, the Appellant had been provided more than adequate time to gain sufficient experience to pass his Part 3 test as well as his failure to provide a training record within the permitted time.
9. 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.

10. 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.

11. Accordingly, the appeal is dismissed.

Signed: ***Damien McMahon***,

Tribunal Judge

Date: 11 September 2024