



Neutral citation number: [2024] UKFTT 836 (GRC)

Case Reference: FT/D/2024/0286

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

**Determined on the papers
On: 16 September 2024**

Decision given on: 23 September 2024

Before

JUDGE DAMIEN MCMAHON

Between

ASHISH NARAYANROA JADHAV

Appellant

-and-

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

Decision: The appeal is Dismissed. The Decision of the Respondent made on 13 March 2024/19 March 2024 is confirmed.

REASONS

1. This appeal was listed for determination on the papers only, with the agreement of the parties, as recorded in Case Management Directions issued 29 July 2024 by a Senior legal Officer.
2. The Appellant appealed against a decision of the Respondent dated 13 March 2024, to refuse the Appellant's application for a further, and third, trainee driving instructor licence made on 31 January 2024. The decision of the Respondent was made, taking account of representations made by the Appellant on 19 February

2024, namely, that he had to cancel his second attempt at a Part 3 test due to his suffering from an eye allergy and being unable to find students over the Christmas break, on the grounds that the Appellant had been granted two trainee licences, covering a period of 12 months in total, from 27 February 2023 to 26 February 2024, to gain any necessary practical experience of driving tuition and to reach the qualifying standard to pass his Part 3 test. sufficient experience to pass his Part 3 (instructional ability) test, a time considered to be more very reasonable 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); that a trainee licence was not required to undertake a Part 3 test 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; that the Appellant had failed a Part 3 test twice, on 9 May 2024 and 15 September 2023; that he had not booked for his final attempt at a Part 3 test and that no evidence had been produced by the Appellant of lost training time or a lack of pupils.

3. The Appellant submitted an appeal on 24 March 2024 against the Respondent's said decision on the following grounds:

- that he had consistently demonstrated a strong work ethic, dedication and passion in respect of driving instruction;
- that he had received positive feedback from his pupils for his skills, knowledge patience and calm manner;
- that his commitment to help pupils develop confidence in driving skills was unwavering;
- that he was fully invested in the success of his business;
- that there was a difficulty in getting timely Part 3 test appointments.

The grounds advanced by the Appellant did not, in fact, address the reasons advanced by the Respondent for the decision under appeal.

4. The Respondent, in their Response dated 10 May 2024, reiterated the above-mentioned reasons for refusing the Appellant's application for a third trainee licence.

5. Case management Directions were issued by a Senior Legal Officer on 29 July 2024.

6. This appeal concerns a decision of the Respondent to refuse the Appellant's application for a further, third, 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 for their decision. The burden of proof in satisfying the Tribunal that the Respondent's decision was wrong rests with the Appellant.

7. 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 pass his Part 3 test.
8. 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.
9. 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.
10. There was little or no dispute as to the material facts of this case.
11. Accordingly, the appeal is dismissed.

Signed: *Damien McMahon,*

Tribunal Judge

Date: 16 September 2024

Promulgated on: 23 September 2024