



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

**Appeal reference: D/2023/128
NCN: [2024] UKFTT 00900 (GRC)**

**Heard on 27th September 2024
By video hearing**

Before

FIRST-TIER TRIBUNAL JUDGE MATHEWS

Between

NAZIDA BIBI

Appellant

and

THE REGISTRAR OF APPROVED DRIVING INSTRUCTIONS

Respondent

Representation:

Appellant – in person.
Respondent – Ms C Jackson.

Decision.

The appeal is allowed.

Background

1. This appeal concerns a decision of the Registrar of Approved Driving Instructors (the registrar) made on 14th March 2023 to remove the appellant's name from the Register of Approved Driving Instructors.

2. The Registrar gave the following reasons for the decision appealed :-

2. The Appellant's name was first entered in the Register in January 2007, and in the normal course, her current period of registration will expire on the last day of November 2024.

3. Section 125(5) of the Act requires that a person whose name is held in the Register shall undergo a test of continued ability and fitness to give instruction in the driving of motor cars, now referred to as a standards check, when required to do so by the Registrar.

4. The Appellant failed to make herself available on 2 occasions to undergo a test of continued ability and fitness to give instruction and last attended in April 2010. **(D1)**.

5. By way of a letter and e-mail dated the 20 September 2022 the Appellant was informed that I was considering the removal of her name from the Register because I could no longer be satisfied that her ability to give driving instruction was of a satisfactory standard. The Appellant was offered the opportunity to make any representations she wished to within 28 days. **(D2)** 16

6. By way of e-mails dated 21 and 26 September 2022 **(D3)** the Appellant responded but failed to make any substantial representations. The Appellant stated, "I have forwarded medical evidence last week to you, is this sufficient or do you still require a fit note." I was provided with an email that the Appellant had sent to the standards check team on 15 September 2022, **(D4)** 2 days after she failed to attend her standards check. In this message she stated "I have missed my check test 2 days ago; I was not aware of this. I have recently been finding it difficult to manage my affairs and am currently taking anti-depressants and sleeping tablets and trying to overcome domestic abuse. My medication has been causing me to feel very drowsy and disoriented, as a result I have not been driving or teaching. I considered the representations made but I came to the view that the Appellants name should be removed from the Register; she has failed to demonstrate that her teaching is of the minimum standard and if she was not

instructing, she could have returned her certificate. She was informed of my decision by way of a letter dated the 14 March 2023, pursuant to Section 128 (6) of the Act. **(D11)**

The reasons for my decision are: -

a) The Appellant failed to attend tests of continued ability and fitness to give instruction on 2 occasions and last attended in 2010.

b) I therefore considered that the Appellant had been given adequate opportunity to attend and pass the said test but she had failed to do so. Therefore, in the interests of road safety and consumer protection, I felt obliged to remove her name because she had been unable to satisfy me that her ability to give driving instruction was of a satisfactory standard.

3. The appellant now appeals the registrar's decision of 14th March 2023. .

Appeal to the Tribunal

5. The appellant's notice of appeal, and supporting statement, accepts that she missed test dates on 2nd November 2021 and 5th September 2022. She explains that she had been a victim of domestic violence and abuse. As a consequence she suffered several miscarriages and had to obtain treatment for depression. She describes a coercive and controlling relationship that she was only recently able to end. She now is a single parent living with her young children. She states that at the time of the missed tests, she had informed the registrar that she was unwell and had provided some evidence in support of that.

Mode of Determination

7. The parties and the tribunal agreed that this matter was suitable for hearing as a live contested hearing held by video platform.

8. I have considered the bundle submitted to me, this included the appellant's statement and documents. I have considered all documents advanced in relation to the appeal and all evidence and submissions heard during the hearing.

The Law

9. Section 125(5) of the Road Traffic Act 1988 requires that an instructor on the register must undergo a test of continued ability and fitness to give instruction.

10. In the present appeal the respondent must demonstrate that the appellant failed to make herself available for two such tests as alleged.

11. The appellant does not dispute any of the applicable law in this case, or that the two alleged tests were not conducted. She states that she simply missed the tests because she was unwell and that the registrar had been adequately advised of that fact.

12. The powers of the tribunal in determining this appeal are set out in section 131 of the Road Traffic Act 1988.

13. When making its decision, the tribunal stands in the shoes of the registrar of approved driving instructors 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.

Evidence.

14. The appellant gave evidence in person and adopted her written and signed statement as her account in chief. She clarified that on 4 occasions since qualifying in 2010 she had returned her badge either because of maternity leave or as a result of ill health during her previous abusive relationship. This was confirmed on behalf of the respondent.

15. She confirmed that when she was finally able to leave her former partner she required medical treatment for depression and low mood. Her treatment and mediation was supervised by her general practitioner and she has now recovered substantially.

16. The appellant produced emails in which she had informed the respondent of poor health and had sent images showing her prescribed medication. She was frank in being uncertain as to the precise date on which emails were sent, explaining that at

the time she was suffering from poor health, and in particular anxiety and depression, during her difficult relationship.

Findings

17. I have noted with care the evidence and submissions. I recognise that the appellant does not dispute that she was required to attend for check tests. She accepts that she failed to attend for two check tests, but disputes that those failures represent refusal to attend for a test/s, suggesting that in fact she was simply too unwell at the time.

18. I found the appellant to be a truthful and honest witness. Her evidence was consistent with her previous statements and the documents submitted to me. I find that at the time of the missed check tests she was suffering from depression as a result of being in an abusive and controlling relationship. I accept that explanations given to the respondent for her failures to attend were brief and lacked formal medical evidence to establish that she was unfit to drive or submit to a test.

19. However I find that her failure to attend for the tests was entirely as a result of the mental difficulties that she was suffering from. I do not find that her behaviour can fairly be considered to be a refusal to be tested given the poor state of her mental health at the time. In reaching that conclusion I note the fact that when her difficulties were less intense she had always returned her licence during periods when she was unable to teach. I find that to be indicative of a cautious and responsible individual who has not sought to manipulate the system or avoid testing requirements.

20. For the reasons set out above I find that this appeal should be allowed. The appellant missed check tests as a result of poor health during a very difficult period of

Appeal:- **D/2023/128**

her life, rather than a wilful refusal to submit to a testing regime. For that reason I do not find that it was reasonable to remove the appellant from the register.

21. The appeal is allowed.

Signed:-

A handwritten signature in black ink that reads "Deni Mathews". The signature is written in a cursive style and is centered within a light grey rectangular box.

Deni Mathews

5th October 2024

Judge of the First-Tier Tribunal