



Neutral citation number: [2025] UKFTT 00218 (GRC)

Case Reference: FT.D.2024.0687

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

**Decided without a hearing
Decision given on: 21 February 2025**

Before

JUDGE BRIDGET SANGER

Between

CHRISTOPHER DAVIES

Appellant

and

REGISTRAR FOR APPROVED DRIVING INSTRUCTORS

Respondent

Decision: The appeal is dismissed.

REASONS

Introduction

1. This is an appeal against a decision of the Registrar of Approved Driving Instructors ('the Registrar'), made on 30th July 2024, to refuse to grant the Appellant a third trainee licence.
2. The Appellant did not appear at the hearing. The Registrar did not appear and was not represented.
3. This matter was set down for a hearing on 17th February 2025.

4. The clerk to the court rang the Appellant at the appointed time. He reported that the Appellant said he had failed his Part 3 test and would not, therefore, be attending the hearing.
5. The Respondent had completed a compliance certificate, confirming that the matter was ready for hearing. I am therefore satisfied that the Respondent had notice of the hearing. This Tribunal has been notified that the Registrar has made a decision not to attend trainee licence appeal hearings for the foreseeable future.
6. Rule 36 allows the Tribunal to continue in the absence of a party if it is satisfied that the party has been notified of the hearing or that reasonable steps have been taken to notify the party, and it is in the interests of justice to do so.
7. I took account of the overriding objective and was satisfied that it was in the interests of justice to proceed.

Legal Framework

8. The grant of a trainee licence enables applicants to provide instruction for payment before they are qualified.
9. A trainee licence may be granted in the circumstances set out in s. 129 of the Road Traffic Act 1988 ('the Act') and the Motor Cars (Driving Instruction) Regulations 2005.
10. 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.'
11. In order to qualify as an Approved Driving Instructor, applicants must pass the Qualifying Examination. This comprises: the written examination ('Part 1'); the driving ability and fitness test ('Part 2'); and the instructional ability and fitness test ('Part 3').
12. Three attempts are permitted at each part. The Part 3 test must be applied for within 2 years of passing Part 1, failing which the whole examination has to be retaken.
13. If a candidate has passed Part 2, they may be granted a trainee licence. The grant of a trainee licence enables applicants to provide instruction for payment before they are qualified. It is possible to qualify as an Approved Driving Instructor without having held a trainee licence.
14. The powers of the Tribunal in determining this appeal are set out in s.131 of the Act. The Tribunal may make such order as it thinks fit.

15. When making its Decision, 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.
16. The burden of proof in satisfying the Tribunal that the Registrar's decision was wrong rests with the Appellant.

Factual Background to the Appeal

17. The Appellant had not previously been on the Register of Approved Driving Instructors.
18. The Appellant passed Part 1 of the Qualifying Examination on 25th April 2023. He passed Part 2 on 8th June 2023.
19. The Appellant was in receipt of a trainee licence which was valid from 26th June 2023 to 25th June 2024.
20. On 2nd October 2023 the Appellant failed his first attempt at the Part 3 test. On 16th May 2024 he failed his second attempt.
21. On 18th June 2024 the Appellant applied for a third trainee licence. This was before the expiry of his second trainee license.
22. On 18th June 2024 the Appellant was informed, by the Registrar, that he was considering refusing the application and invited to make representations.
23. The Appellant made representations on 10th July 2024.
24. The application was refused on 30th July 2024.
25. The reasons for the Registrar's decision, in summary, were that the Appellant had provided no evidence of loss of training time or a lack of pupils and had already had a trainee license for twelve months.
26. On 25th September 2024 the Appellant had a third attempt at Part 3 booked. This was cancelled by him.

Appeal to the Tribunal

27. The Appellant filed an appeal against the decision of the Respondent on 12th August 2024.
28. The grounds of appeal were, in summary, that:

- a. The Appellant had been denied the opportunity to take three attempts at the Part 3 test within the required timeframe of 6 months due to lack of availability;
- b. He had been “on hold” awaiting a test date for many months and (at the time of filing the appeal) was on hold for a third date;
- c. His recent results with regards to helping students pass their tests were outstanding and he felt that he was now fully equipped to pass the Part 3 test;
- d. The decision to refuse to permit him to have a further trainee license felt counter-intuitive as to allow him to have it would give him the best possible chance of passing;
- e. Being unable to continue to teach the students he had at that time would have a negative impact on their journeys and his own.

29. The Appellant appended a document in which he provided positive feedback from 6 of his students.

30. The Registrar, in his response, states:

- a. the purpose of the provisions governing the issue of licences is to afford applicants the opportunity of giving instruction to members of the public whilst endeavouring to achieve registration. The system of issuing licences is not and must not be allowed to become an alternative to the system of registration;
- b. the licence granted to applicants is not to enable the instructor to teach for however long it takes to pass the examinations, but to allow up to six months experience of instruction. This provides a very reasonable period in which to reach the qualifying standard in the examination and in particular, to obtain any necessary practical experience in tuition. The Appellant has already had two trainee licences which cover a period of 12 months. Moreover, by virtue of the Appellant having applied for a third licence before the expiry date of the second, that licence has remained in force to the present time and will allow him to continue to give paid instruction until determination of the appeal;
- c. the licence granted to applicants is not to enable the instructor to teach for however long it takes to pass the examinations, but to allow up to six months experience of instruction. This provides a very reasonable period in which to reach the qualifying standard in the examination and in particular, to obtain any necessary practical experience in tuition. The Appellant has already had two trainee licences which cover a period of 12 months. Moreover, by virtue of the Appellant having applied for a third licence before the expiry date of the second, that licence has remained in force to the present time and will allow him to

continue to give paid instruction until determination of the appeal;

- d. the refusal of a third licence does not bar the Appellant from attempting the instructional ability test of the Register examinations. He does not need to hold a licence for that purpose, nor is it essential for him to give professional tuition under licence in order to obtain further training. The Appellant could attend a training course, or study and practice with an Approved Driving Instructor or give tuition on his own (provided that he does not receive payment of any kind for this). These alternatives are used by some trainees who acquire registration without obtaining any licences at all;
- e. it should be noted [*as at 24th September 2024*] that the Appellant had not yet booked a final attempt at the part 3 test.

Evidence

31. I read and took account of a bundle of documents.

Discussion and Conclusions

32. I may overturn the decision of the Registrar if I am of the opinion that it was wrong. The burden is on the Appellant to show this.

33. Rule 17 requires an Appellant to provide notice of withdrawal either in writing (Rule 17(1)(a)) or orally, during a hearing (Rule 17(1)(b)).

34. That Rule was not complied with and the Tribunal cannot, therefore, consent to a withdrawal.

35. The position would appear to be that the Appellant has failed his third attempt at the Part 3 test.

36. He is therefore no longer eligible to hold a trainee license under The Motor Cars (Driving Instruction) Regulations 2005 rule 14(b) and any appeal is therefore bound to fail.

37. I must, therefore, dismiss the appeal.

Signed: Judge Bridget Sanger

Date: 17th February 2025