



Neutral citation number: [2024] UKFTT 001015 (GRC)

Case Reference: FT/D/2024/0526

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

**Heard: by CVP
Heard on: 31 October 2024
Decision given on: 11 November 2024**

Before

TRIBUNAL JUDGE SOPHIE BUCKLEY

Between

TAHIR AHMAD

Appellant

and

REGISTRAR FOR APPROVED DRIVING INSTRUCTORS

Respondent

Representation

For the Appellant: In person

For the Respondent: Did not attend

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 6 June 2024 to refuse to grant the Appellant a third trainee licence.
2. The respondent did not attend. I was satisfied that the respondent was notified of the hearing and that it was in the interests of justice to proceed with the hearing in the absence of the respondent.

Legal framework

3. The grant of a trainee licence enables applicants to provide instruction for payment before they are qualified.
4. 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.
5. 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.'

6. 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').
7. Three attempts are permitted at each part. The whole examination must be completed within 2 years of passing Part 1, failing which the whole examination has to be retaken.
8. 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.

9. 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.
10. 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. The burden of proof in satisfying the Tribunal that the Registrar's decision was wrong rests with the Appellant.

Factual background to the appeal

11. The Appellant passed Part 1 of the Qualifying Examination on 22 February 2023 and passed Part 2 on 11 April 2023. The Appellant applied for two trainee licences which were granted and were valid from 15 May 2023 to 14 May 2024.
12. On 4 May 2024, the Appellant applied for a third trainee licence. As the Appellant applied before the licence expired, this means that, at the date of the hearing, the appellant had been the beneficiary of a trainee licence for 1 year and 5 months.
13. The Appellant took and failed the Part 3 exam on 10 August 2023 and 13 December 2023. The Appellant had his third attempt booked for 19 August 2024 but cancelled it.
14. The reasons for the Registrar's decision, in summary, were that 12 months is considered to be a more than adequate period of time to gain sufficient experience to pass Part 3.

Appeal to the Tribunal

15. The grounds of appeal are, in summary:
 - 15.1. that the Appellant has lost training time due to fertility treatment for him and his wife;
 - 15.2. that he needs more time and training.
16. The Registrar, in his response, states:

- 16.1. 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.
- 16.2. 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. Moreover, by virtue of the Appellant having applied for a second licence before the expiry date of the first, 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.
- 16.3. Since passing his driving ability test the Appellant has failed the instructional ability test twice and cancelled two more tests. Despite ample time and opportunity the Appellant has not been able to reach the required standard for qualification as an Approved Driving Instructor.
- 16.4. 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.

Evidence

17. I read and took account of a bundle of documents and I heard from the Appellant.

Discussion and conclusions

18. I have considered carefully all the papers before me and the submissions made by the Appellant.

19. I note that the Appellant has already had the benefit of two trainee licences covering a period of 12 months. This should have been adequate time to prepare. Further I note that the Appellant has had the benefit of a further period of 5 months up to today.
20. I accept that the Appellant has lost some training time as a result of fertility treatment for him and his wife. He was in Turkey for fertility treatment from 24 January 2024 to 15 February 2024 and was unable to work at all for a week on his return. He then had a gradual return to normal over a few weeks. After his recovery, the Appellant has had to attend at least 2-3 appointments a month with his wife. When he was not attending an appointment, the Appellant stated that he was able to give 4-5 lessons a day.
21. His evidence was that where an appointment was coming up, there were some weeks, in which he was not able to give any lessons. It is not clear to me why the Appellant would have been unable to give any lessons because of an appointment other than on the day of the appointment itself.
22. I accept that, in general, the Appellant's focus has understandably been on his wife and on their attempts to conceive rather than on his training, however, even taking this into account and the specific periods away from training set out above, I find that the overall period in which the Appellant has been able to give driving instruction should have provided a reasonable opportunity to obtain the practical experience envisaged by the Act.
23. The Appellant can continue to study and practice and is able to continue to gain experience and take the test without a trainee licence.
24. The trainee license is not a substitute for taking and passing the test. It is not the purpose of trainee licences to keep renewing them until all attempts at passing Part 3 have been taken.
25. Having weighed all matters in the balance, the Appellant has not persuaded me that the Registrar's decision was wrong in any way. In all the circumstances, I agree with the Registrar's decision and the appeal is dismissed.

Signed Sophie Buckley
2024

Date: 1 November

Judge of the First-tier Tribunal