



Neutral citation number: [2024] UKFTT 00627 (GRC)

Case Reference: FT/D/2024/0189

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

**Determined on the Papers
On: 16 July 2024**

Decision given on: 24 July 2024

Before

JUDGE DAMIEN MCMAHON

Between

GARY SHARPLES

Appellant

-and-

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

Decision: The appeal is Dismissed. The Decision of the Respondent made on 14 February 2024 is confirmed.

Background

1. This appeal concerns a decision of the Respondent made on 14 February 2024 to refuse to grant the Appellant a third trainee licence.
2. The Appellant is trainee driving instructor who had been granted two trainee licences

under s.129 of the Road Traffic Act 1988 ('the Act') for the periods from 23 January 2023 to 21 January 2024 (a total of 12 months), but who was refused an application dated 15 January 2024 for a further, third, trainee licence.

3 The Respondent's reasons for refusal, in summary, taking account of representations made by the Appellant on 22 January 2024, that he had a difficulty obtaining a Part 3 test date and had childcare responsibilities due to his wife being unwell, were that the Appellant had already had time to gain sufficient experience to pass the final part (Part 3) of the Approved Driving Instructor ('ADI') qualifying examination; that a trainee licence was to give an ADI applicant an opportunity of giving driving instruction to people, for payment, while endeavouring to obtain registration as an ADI, not to be used as an alternative to the ADI registration system; that it was not necessary to hold a trainee licence in order to undertake a Part 3 test and that a refusal to issue a third trainee licence, did not prevent the Appellant from undertaking a Part 3 test.

4. The Appellant appealed the said decision of the Respondent to the Tribunal.

Appeal to the Tribunal

5. The Appellant's Notice of Appeal, dated 26 February 2024, relied on an assertion that had difficulty re-booking a Part 3 test, having failed at his first attempt and having completed a further five hours additional training, as advised, by 2 December 2023, but had been re-booked for 5 April 2024. It seemed from the Appellant's written evidence that he considered he required to have in place a trainee licence in order to undertake a Part 3 test. This was not the case: since the Appellant applied for a third trainee licence before his second trainee licence had expired, his second trainee licence remained in force until the determination of this appeal meaning he could, until then, continue to give paid tuition.

The Response of the Respondent.

6. The Response of the Respondent, dated 22 March 2024, essentially relied on the fact that the purpose of a trainee licence was to afford an ADI applicant the opportunity of gaining practical experience of teaching pupils for payment in order to undergo the instructional ability examination (the part test) and it was not intended that a trainee licence should be held for however long it took the Appellant to pass the Part 3 test; that the total of 12 months afforded to the Appellant (longer pending determination of this appeal) was a reasonable period to enable the Appellant to reach the qualifying standard to be entered onto the Register as an ADI and, in particular, to obtain any necessary practical experience in driving tuition. The Appellant had passed his driving ability test but had failed to pass his instructional

ability test. The Respondent also submitted that its decision to refuse the Appellant's application for a third trainee licence was not a bar to him attempting another instructional ability test as he did not need a trainee licence to do so or to obtain further training through other routes – a course for which there is precedent.

Mode of Determination

8. The parties and the Tribunal agreed that this matter was suitable for determination on the papers in accordance with Rule 32 of The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009, as amended ('the Rules'). The Tribunal considered a bundle containing 21 pages.

The Law

9. The grant of a trainee licence enables applicants to provide instruction for payment before they are qualified. The circumstances in which trainee licences may be granted are set out in s. 129 of the Act and the Motor Cars (Driving Instruction) Regulations 2005 ('the Regulations').

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 ADI, 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 whole examination must be completed within 2 years of passing Part 1, failing which the whole examination has to be retaken.

12. If a candidate has passed Part 2, they may be granted a trainee licence. However, holding a trainee licence is not a prerequisite to qualification as an ADI and many

people qualify as an Approved Driving Instructor without having held a trainee licence at all.

13. 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.

14. When making its Decision, the Tribunal stands in the shoes of the Respondent and takes a fresh decision on the evidence available to it, giving appropriate weight to the Respondent's decision as the authority tasked by Parliament with making such decisions. The burden of proof in satisfying the Tribunal that the Respondent's decision was wrong rests with the Appellant.

Evidence

15. The parties did not file any witness statements. I have seen the Appellant's test history; his application for the two trainee licence previously granted; his application for a third trainee licence, and the correspondence passing between the parties.

Conclusion

16. I have considered carefully all the papers before me. I note that the Appellant has already had the benefit of two trainee licences in total, covering a period of 12 months which is adequate to prepare for the Part 3 test. He is able to continue to gain experience and take the test without a trainee licence, and it is not a substitute for taking and passing the Part 3 test. It is not the purpose of trainee licences to keep renewing them until all attempts at passing Part 3 have been taken.

17. The Appellant has not persuaded me that the Respondent's decision was wrong in any way. In all the circumstances, I agree with the Respondent's decision.

18. Accordingly, I dismiss this appeal.

Signed

Date: 16 July 2024

Damien McMahon,

Tribunal Judge

Corrected: 5 August 2024 - Damien McMahon

Original numbered paragraph 8 at the end of the Decision corrected to read '18.'