



Neutral citation number: [2024] UKFTT 00982 (GRC)

Case Reference: FT/D/2024/0537

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

**Determined at a panel paper hearing on: 22nd October 2024
Decision given on: 04 November 2024**

Before

**HHJ DAVID DIXON
DAVID RAWSTHORN
STUART JAMES**

Between

SAFINA YUNUS

Appellant

and

**THE REGISTRAR OF APPROVED
DRIVING INSTRUCTORS**

Respondent

Decision: The appeal is dismissed with immediate effect.

REASONS

Background to Appeal

1. This appeal concerns a decision of the Registrar of Approved Driving Instructors (“the Registrar”) made on 12th June 2024 to refuse to issue a third trainee licence to the Appellant.
2. The Registrar’s reasons for refusal, in summary, were that the Appellant had already been issued with two trainee licences and insufficient evidence of a loss of training opportunity had been provided that justified a further licence being granted.
3. The Appellant now appeals the Registrar’s decision.

Appeal to the Tribunal

4. The Appellant’s Notice of Appeal, dated 26th June 2024, indicates that she was working full time as well as undertaking her training and asked that this be taken into consideration. She also said that her mother had become unwell and needed more care, albeit didn’t indicate the extent of the same. The Appellant said that she was committed to becoming an ADI and wanted the opportunity to continue training towards her third attempt at her Part 3 examination. She implored reconsideration of the decision to refuse her licence.
5. The Respondent provided a Response indicating that having been licenced for 12 months that sufficient opportunity to train had already been provided. There was no real basis offered to extend the period any further. The Registrar also indicated that the Appellant had already taken two Part 3 examinations, albeit she had failed both. A third test was booked for 29th August 2024, and she failed the same. She is now barred from taking any further Part 3 examinations unless and until she restarts the process.

Mode of Determination

6. The case was listed for paper hearing and the Tribunal met via the video enabled hearing system to discuss the case. The Appellant wished for a paper determination and the Tribunal in the circumstances of this particular case, applying the Tribunal Rules, decided such a procedure was fair and appropriate in so far as it was able to proceed.
7. The Tribunal considered a bundle of evidence consisting 20 pages

The Law

8. Conditions for entry and retention on the Register require the Applicant to be and continue to be a “*fit and proper person*” to have his name on the Register of Approved Driving Instructors – see s. 125 (3) and s. 127 (3) (e) Road Traffic Act 1988¹.

¹ <http://www.legislation.gov.uk/ukpga/1988/52/part/V/crossheading/registration>

9. The Registrar may take the view that a person no longer meets this requirement where there has been a change in circumstances. The burden of showing that a person does not meet the statutory criteria rests with the Registrar.

10. In *Harris v Registrar of Approved Driving Instructors* [2010] EWCA Civ 808², the Court of Appeal described the “*fit and proper person*” condition thus:

“..the condition is not simply that the applicant is a fit and proper person to be a driving instructor, it is that he is a fit and proper person to have his name entered in the register. Registration carries with it an official seal of approval...the maintenance of public confidence in the register is important. For that purpose the Registrar must be in a position to carry out his function of scrutiny effectively, including consideration of the implications of any convictions of an applicant or a registered ADI. This is why there are stringent disclosure requirements”.

11. An appeal to this Tribunal against the Registrar’s decision proceeds as an appeal by way of re-hearing i.e. the Tribunal stands in the shoes of the Registrar and take a fresh decision on the evidence before it. The Tribunal must give such weight as is considered appropriate to the Registrar’s reasons³ as the Registrar is the person tasked by Parliament with making such decisions. The Tribunal does not conduct a procedural review of the Registrar’s decision-making process.

Decision

12. The Tribunal considered carefully all the papers before it.

13. The Appellant is now barred from undertaking any further Part 3 examinations, having failed 3 attempts at the same. There is therefore no reason for a licence to be held and the Appeal is dismissed.

14. In light of the aforesaid little more needs to be said, but the basis of the Appeal would have been rejected in any event as there was no proper basis for seeking a third licence. Working full time whilst undertaking training and unspecified assistance to a relative is never likely to result in a further licence being granted.

(Signed)

HHJ David Dixon
David Rawsthorn
Stuart James

DATE: 22nd October 2024

² <http://www.bailii.org/ew/cases/EWCA/Civ/2010/808.html>

³ See *R (Hope and Glory Public House Limited) v City of Westminster Magistrates' Court* [2011] EWCA Civ 31. <http://www.bailii.org/ew/cases/EWCA/Civ/2011/31.html>. Approved by the Supreme Court in *Hesham Ali (Iraq) v Secretary of State for the Home Department* [2016] UKSC 60 at paragraph 45 – see <https://www.supremecourt.uk/cases/docs/uksc-2015-0126-judgment.pdf>.