



Neutral citation number: [2024] UKFTT 1138 (GRC)

Case Reference: D/2024/0226

**General Regulatory Chamber
Transport**

First-tier Tribunal

**Determined on paper
on 18th December 2024**

Decision given on: 18 December 2024

Before

HHJ DAVID DIXON

Between

RUPINDERJIT KAUR

and

**THE REGISTRAR OF APPROVED
DRIVING INSTRUCTORS**

Appellant

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 28th February 2024 to refuse to grant the Appellant a third trainee licence.
2. The Appellant is a trainee driving instructor who was granted a trainee licence under s.129 of the Road Traffic Act 1988¹ (‘the Act’) for a six-month period, and then another, but was refused a further licence at the end of the relevant period.
3. The Registrar’s reasons for refusal, in summary, were that the Appellant had not passed the final part of the ADI qualifying examination within the relevant period and as insufficient evidence of loss of training time was supplied that the Appellant had had long enough to progress, and the application to issue a third trainee licence was therefore refused.
4. The Appellant now appeals the Registrar’s decision.

Appeal to the Tribunal

5. The Appellant’s Notice of Appeal, dated 5th March 2024, indicates that for unspecified personal reasons, and because she was not ready, she had to cancel her 2nd attempt at her Part 3 examination. She asserted that she was “now ready” and having had regular Orbit training she was confident. She indicated if a further licence was not forthcoming she would have financial difficulties as this was her only job and finding new work isn’t easy.
6. The Respondent submitted a Response indicating that the decision letter sets out their position. The Registrar points out that the Applicant had sufficient time to progress.
7. The Registrar indicates that the Appellant has failed her Part 3 once, and had cancelled another.
8. The Registrar indicates the Appellant has been licensed from 23rd January 2023 to date, a period so far of almost 2 years.

Mode of Determination

9. The Tribunal considered the appeal on the papers, the Appellant and Respondent agreeing to such a determination. In accordance with the Tribunal Rules the Tribunal assessed whether it was right and proper to continue on the papers and came to the clear view to do so would be fair to all.
10. The Tribunal considered a bundle of evidence containing 23 pages.

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

The Law

11. 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 2005².
12. 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’.
13. 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’). 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.
14. 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 Approved Driving Instructor and many people qualify as an Approved Driving Instructor without having held a trainee licence.
15. 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.
16. 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 decision³ 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.

Conclusion

17. The Tribunal considered carefully all the papers before it.
18. Here the Appellant suggested that she lost some time for unspecified reasons. She didn’t provide details of the extent or duration of the same and therefore the Tribunal had nothing to assess her Appeal against. However her assertion that she had had sufficient Orbit training to be ready shows that she has had appropriate training opportunities.
19. In fixing a period of 6 month to allow for trainee instructors to progress Parliament must have had in mind that we are all subject to differing life events that affect our ability to undertake

² http://www.legislation.gov.uk/uksi/2005/1902/pdfs/uksi_20051902_en.pdf

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>.

certain tasks. Sometimes those events are so unusual or have such a bearing on an individual that it will be entirely appropriate to find that a longer than normal period of time should be allowed to complete a task. Here the Appellant provided a suggested issue but nothing to support the same. There was no evidence of a lack of training time, a lack of pupils or anything that could be used to justify an extension.

20. The Appeal has taken a long time to progress through the Tribunal, and as a consequence she has remained licenced for a considerable period, longer even than the third licence sought. Having held her licence for the period she has there is simply no way that she can be allowed a further extension. There is simply no basis to allow the same and the Appeal fails. Even if this were not so it is more than 2 years after the Part 2 examination was passed and therefore she is outside of the permissible time allowed.
21. The Appeal is dismissed with immediate effect.

(Signed)

HHJ David Dixon

DATE: 18th December 2024