



NCN: [2024] UKFTT 1157 (GRC)

Case Reference: FT/D/2024/0471

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

**Decided without a hearing
Decision given on: 03 January 2025**

Before

JUDGE MATON

Between

AMY GEORGINA KINGSTON

Appellant

and

THE REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

Decision: The appeal is Dismissed.

REASONS

1. This is an appeal against a decision of the Registrar of Approved Driving Instructors (“the Registrar”) dated 13 May 2024 not to grant a third trainee licence to the Appellant.
2. The parties agreed that the Appeal should be decided without a hearing, and the Tribunal is satisfied that this is a fair and just way to decide the Appeal. The Tribunal read and took account of a bundle of documents.

Relevant law

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 s129 of the Road Traffic Act 1988 (“the Act”) and the Motor Cars (Driving Instruction) Regulations 2005.
5. A licence under s129(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 for registration as an approved driving instructor, applicants must pass the Qualifying Examination. This comprises: a written examination (“Part 1”); a driving ability and fitness test (“Part 2”); and an instructional ability and fitness test (“Part 3”).
7. Three attempts are permitted at each part. The whole examination must be completed within two years of passing Part 1, failing which the whole examination has to be retaken.
8. 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. Under s129(2) of the Act, the Registrar must grant a licence to an applicant who fulfils specified conditions, including that they have passed Parts 1 and 2. Under s129(3) the Registrar has discretion to refuse an application for a second or subsequent licence.
9. Under s129(6)(b), where a person applies for a new licence in substitution for a licence held by her and current at the date of the application, the previous licence will not expire if the Registrar decides to refuse the application, until the time limit for an appeal against the decision has expired and, if such an appeal is duly brought, it is finally disposed of.
10. The powers of the Tribunal in relation to appeals against decisions not to grant trainee licences are set out in s131 of the Act. When making a decision on any such appeal, 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.

Factual background

11. The Appellant was granted a trainee licence on 3 April 2023, expiring on 2 October 2023, and a second trainee licence on 3 October 2023, expiring on 2 April 2024.
12. The Appellant applied for a further trainee licence, and in an email dated 3 April 2024 the Registrar advised that he was considering refusing the application, and invited the Appellant to make representations regarding this. The Appellant made representations in a letter dated 11 April 2024, and the Registrar replied by letter dated 13 May 2024, refusing the application.

13. In her Appeal the Appellant submits that:

- a. Her first booked attempt at Part 3 was delayed due to a car crash;
- b. After she took and failed her first attempt, her second attempt was delayed due to backlogs and standard checks, and was arranged for May 2024;
- c. She wants to continue to practice with a view to becoming registered, and to keep receiving help from her franchise to do so.

14. In his Response the Registrar submits that:

- 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; that 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 third licence before the expiry date of the second, that licence remained in force and would allow her to continue to give paid instruction until determination of the Appeal;
- c. since passing her driving ability test the Appellant has failed the instructional ability test twice and cancelled one more such booking; and that despite ample time and opportunity, the Appellant has not been able to reach the required standard for qualification as an approved driving instructor;
- d. the refusal of a third licence does not bar the Appellant from attempting Part 3; she does not need to hold a licence for that purpose, nor is it essential for her to give professional tuition under licence in order to obtain further training; and that alternatives are available to acquire registration without obtaining a licence.

15. In his Response, which was dated 4 June 2024, the Registrar further submitted that the Appellant had a further attempt at Part 3 booked and on hold awaiting a date, and that, should the test go ahead, the Appeal would be bound to fail given the purpose of trainee licences being to provide an opportunity to gain the practical experience necessary to take the test.

Discussion and conclusion

16. The Appellant has held trainee licences for a year, and has been permitted to continue under the licence while this Appeal has been considered.

17. The Appellant has had ample time and opportunity to attempt the Part 3 test, and despite some setbacks, has been able to arrange and attempt it.
18. Regarding the booking of a third attempt, the Tribunal did not have evidence at the time of consideration regarding whether a date had been confirmed or whether the Appellant had undertaken the third attempt, so could not take this point into account in deliberation.
19. The Appellant does not in any event need a further trainee licence in order to prepare for the test.
20. Having considered the parties' submissions and the matters set out above the Tribunal is not persuaded that the Registrar's decision was wrong, and the Appeal is dismissed.

Signed

Tribunal Judge Maton

Promulgated

Date:

30 December 2024

03 January 2025