



NCN [2024] UKFTT 00417 (GRC).

Case Reference: D/2023/577

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

Heard: Paper Consideration

**Heard on: 13 May 2024
Decision given on: 23 May 2024**

Before

Tribunal Judge Hazel Oliver

Between

HASHAM AHMAD

Appellant

and

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

Decision: The appeal is dismissed. The Registrar's decision of 24 November 2023 is upheld.

REASONS

1. This appeal concerns a decision of the Registrar of Approved Driving Instructors ("the Registrar") made on 24 November 2023 to refuse to grant the Appellant a third trainee licence.

2. The Appellant is trainee driving instructor who was granted a trainee licence under section 129 of the Road Traffic Act 1988 ('the Act'), for two six-month periods from 7 November 2022 to 6 November 2023. He was refused a further licence. The Appellant now appeals the Registrar's decision.

3. The parties have agreed to a paper determination of the appeal. The Tribunal is satisfied that it can properly determine the issues without a hearing within rule 32(1) (b) of The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 (as amended).

The Appeal

4. The Appellant's Notice of Appeal dated 12 January 2024 relies on the grounds that he was not able to do enough training due to:

- a. Caring for his grandmother who had multiple medical procedures and a couple of major surgeries (between November 2021 and July 2023).
- b. Working nights in his old employment and continuing his old job until the end of January.
- c. Moving to a new house in July 2023.
- d. Getting married in August 2023.

5. The Registrar's Statement of Case dated 31 January 2024 resists the appeal. It states that the reasons for refusing the third licence were that the Appellant provides no evidence of lost training time or lack of pupils and has had the benefit of two trainee licences for twelve months, the evidence provided is for a pre-planned event, and the Appellant could have returned the licence as advised on gov.uk and the letter accompanying his second licence.

6. The Appellant's Reply of 22 February 2024 explains that he sent all the documents proving why he could not complete the training, which was due to his grandmother having a cardiac arrest and heart issue meaning he had to stop work to care for her, it was not just due to marriage and moving house. He says he had a genuine issue with moving to a new area and being unable to keep his student.

The law

7. 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 section 129 of the Act and the Motor Cars (Driving Instruction) Regulations 2005.

8. 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*".

9. In order to qualify as an Approved Driving Instructor, applicants must pass the Qualifying Examination. This is made up of: 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 two years of passing Part 1, otherwise the whole examination has to be retaken.

10. A candidate may be granted a trainee licence if they have passed Part 2. However, holding a trainee licence is not necessary in order to qualify as an Approved Driving Instructor, and many people qualify without having held a trainee licence.

11. The powers of the Tribunal in determining this appeal are set out in section 131 of the Act. The Tribunal may make such order as it thinks fit (section 131(3)). 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.

The evidence

12. I have considered a bundle of evidence containing 47 pages.

13. This includes evidence of the Appellant's full licence history from the Registrar. From this it appears that the Appellant has failed the Part 3 test once and cancelled one test date.

14. The Appellant provided evidence of some medical records relating to his grandmother, which are from various dates in 2023 with a final discharge record on 6 July 2023. He also provided evidence of a new tenancy starting on 10 July 2023, and his wedding on 24 August 2023.

15. I have also seen the Appellant's representations to the Registrar. These refer to Covid, moving house and getting married as reasons why he should be granted a third trainee licence.

Conclusions

16. I note that the Appellant has already had the benefit of two trainee licences 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. It is not the purpose of trainee licences to keep renewing them until all attempts at passing Part 3 have been taken.

17. I accept that the Appellant has been helping to care for his grandmother. However, the majority of the medical evidence relates to the period of his first trainee licence (except for one surgery in July 2023). Similarly, his point about working nights and finishing his old job relate to the period of his first trainee licence. The Appellant was already granted one additional licence to enable him to obtain further experience. I also note that the Appellant did not raise any points about caring for his grandmother when he applied for the third trainee licence.

18. I accept that the Appellant moved house in July 2023 and got married in August 2023. However, I agree with the Registrar that these were pre-planned events. The Appellant had the option of returning the second trainee licence if he was not able to use it, and this would be taken into account if he applied for a further licence. A

trainee licence is not granted to enable an instructor to teach for however long it takes to pass Part 3, and he has alternative options for preparing for the examination which do not involve paid-for tuition.

19. 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 I now dismiss this appeal.

Hazel Oliver

Judge of the First-tier Tribunal

Dated: 22 May 2024