



NCN: [2024] UKFTT 437 (GRC)

Case Reference: D/2023/221

**General Regulatory Chamber
Transport**

First-tier Tribunal

**Determined on the
on 29th May 2024**

Before

HHJ DAVID DIXON

Between

MONSOR ALAM

and

**THE REGISTRAR OF APPROVED
DRIVING INSTRUCTORS**

Appellant

Respondent

Decision: The appeal is dismissed and the Registrar's decision remains.

REASONS

Background to Appeal

1. This appeal concerns a decision of the Registrar of Approved Driving Instructors (“the Registrar”) made 28th April 2023 to refuse to grant the Appellant a third trainee licence. (There have been a number of issues that have led to this Appeal taking longer to progress through the Tribunal to the actual decision.)
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, 11th May 2023, indicates that his wife had a difficult pregnancy and hospital appointments and hospital stays affected his ability to train. Following the birth of his child there were further issues such that 3 months were lost. On top of that there were issues with mechanical problems with this car, and then it was difficult to book tests following the Covid backlogs. *No dates are given to assist with the timing of such issues..*

Mode of Determination

6. The hearing was listed for an oral determination, but on the day the Appellant indicated he was not attending. As a result the Tribunal considered the appeal on the papers. 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.
7. The Tribunal considered the Appellant’s grounds of Appeal, the decision letter, and various decisions of the Registrar that sought to amend errors made at different stages.

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

The Law

8. 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.
9. 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 '.
10. 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.
11. 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.
12. 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.
13. 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

14. The Tribunal considered carefully all the papers before it.
15. 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 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 number of reasons that might have justified a further licence, but the Appeal has now been live for some many months and the Appellant has had more than long enough to pass the Part3. He may well have had a difficult

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>.

time, but I cannot see that a further licence can be justified now. He technically has been licenced for around 2 years, well over the 6 month expected.

16. The Appeal is dismissed.

(Signed)

HHJ David Dixon

DATE: 29th May 2024