



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

NCN [2024] UKFTT 00468 (GRC).

Appeal Reference: D/2024/50

Decided without a hearing on 21 May 2024

Before

JUDGE ANTHONY SNELSON

Between

KEVIN ADAMS

Appellant

and

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

DECISION

The decision of the Tribunal is that the appeal is dismissed.

REASONS

1. This is the appeal of the Appellant, Mr Kevin Adams, against the decision of the Registrar of Approved Driving Instructors ('the Registrar'), conveyed in a letter of 14 December 2023, to refuse his request for a second trainee licence.

2. The matter was listed before me for consideration on the papers. I was satisfied that it was just and proper to decide the appeal without a hearing.

The statutory framework

3. The Road Traffic Act 1988 ('the Act'), s123(1) prohibits the giving of paid driving instruction except where the instructor's name is included in the Register of Approved Driving Instructors¹ ('the Register') or he/she holds a trainee licence.

4. Candidates for membership of the Register must fulfil a number of conditions. These include the requirement to pass an examination divided into three parts ('the examination'): theory; driving ability and fitness; and instructional ability and fitness (the Act, s125(3)(a)). They must apply for a part three test within two years of passing part one; if they do not, they must re-take the entire examination. Candidates who fail part three on three occasions must also re-take the entire examination.² And in this case the current trainee licence comes to an end on the day following the third test.³

5. By the Act, s129(1) it is provided that trainee licences are granted for the purpose of enabling prospective ADIs who have passed parts one and two of the examination to gain practical experience in driving instruction with a view to taking part three. Trainee licences are valid for six months only. The Registrar is expressly empowered to refuse to grant a trainee licence to an applicant to whom such a licence has previously been issued (s129(3)). It is clear from the language of s129 as a whole that trainee licences are not intended to serve as an alternative to registration.

6. The DVSA website (not, of course, a legal source) includes this advice:

You should return your trainee licence to DVSA if you are not using it, for example because of a long period of illness.

You will not get a refund, but DVSA will know that you have not had full use of the licence. This will be a factor in deciding whether to give you another licence in future.

On the subject of applications for further trainee licences it states:

You're more likely to get another licence if you told DVSA you had stopped using the first, for example because of a period of illness.

It's unlikely that you'll get another licence if you:

- **just want more time to pass the approved driving instructor (ADI) part 3 test**
- **did not follow the [rules for using your previous trainee licence](#)⁴**

7. The effect of the Act, s129(6) is that, where a holder of a temporary licence applies during its currency for a fresh licence, the life of the original licence is extended until the commencement of the new licence or, if the application is refused and the holder appeals, until disposal of the appeal.

8. By the Act, s131(2) an appeal lies to the First-tier Tribunal against a decision to refuse an application for the grant of a licence. On the appeal, the Tribunal may make such order for the grant or refusal of the application as it sees fit (s131(3)). In a different but analogous statutory context in *In the matter of the Bonas Group Pension Scheme* [2011] UKUT B 33 (TCC) Warren J, sitting in the Upper Tribunal, held that there was nothing to constrain the first-instance Tribunal's approach on appeal. Its function is simply to make its own decision

¹ Hereafter the usual abbreviation 'ADI' will be used.

² See the Motor Cars (Driving Instruction) Regulations 2005 ('the Regulations'), reg 3(4)(c) and (d).

³ The Regulations, reg 14(b)

⁴ These include a requirement to undertake a specified number of training hours over the first three months of the licence.

on the evidence before it (which may differ from that before the statutory body whose decision is under challenge). Despite this latitude, however, high authority of general application recognises two important points. First, the burden is on an appellant to persuade the Tribunal that the relevant decision should be overturned or otherwise interfered with. Second, the Tribunal should give careful consideration to the reasons for the decision being impugned, given that Parliament has invested the relevant body with exclusive authority (subject to appeal) to make decisions on such matters.⁵

The key facts

9. The background facts can be summarised as follows.
- 9.1 Mr Adams passed parts one and two of the examination on 10 October and 19 December 2022 respectively.
- 9.2 On Mr Adams's application, the Registrar granted him a trainee licence covering the period from 19 June to 18 December 2023.
- 9.3 On 27 November 2023 Mr Adams applied to the Registrar for a second licence. That application was refused by the letter of 14 December 2023, to which I have already referred.
- 9.4 Given the timing of the application for the second licence, the life of the original licence was extended by the Act, s129(6) to the date of disposal of this appeal (see above).
- 9.5 Mr Adams booked part three tests for 5 December 2023 and 6 January 2024. The former appointment was cancelled by DVSA a matter of hours before it was due to take place, apparently owing to the unavailability of an examiner. The second test went ahead as scheduled and, unfortunately, Mr Adams failed.
- 9.6 Mr Adams describes himself as 'severely dyslexic'. I have seen no evidence in support but I have no reason to do other than accept what he says. Moreover, I have no reason to doubt his assertion that his dyslexia has, to some extent at least, hindered him in his efforts to qualify as an ADI.

The appeal

10. In his notice of appeal dated 19 December 2023, Mr Adams stated that he had complied fully with the conditions attaching to his trainee licence and that he had needed a lot more hours than the minimum specified. He contended that securing part three test opportunities was difficult. He pressed the point about the disadvantage resulting from his dyslexia. Generally, he urged the Tribunal to extend the protection of 'the badge' for as long as it would take him to pass part three.

11. The Respondent resisted the appeal, stressing the importance of not allowing trainee licences to serve as an alternative to the registration system and the fact that eligibility to take the part three test is not conditional upon possession of a trainee licence. Generally, it was contended that the decision which Mr Adams seeks to challenge was solidly based and there was no good reason to disturb it.

Discussion and conclusions

⁵ See *eg R v Westminster Magistrates Court ex p Hope & Glory Public House Ltd* [2011] EWCA Civ 31, paras 39-48 (Toulson LJ).

12. I am not persuaded that there is a good reason to allow this appeal. I have accepted that Mr Adams may well have been hindered to an extent by his dyslexia but, in the absence of any evidence of any significant medical obstacle to preparing for the part three test, I see nothing to justify the grant of a second licence. As already explained, the effect of the appeal is that the original licence was automatically extended until the date of the Tribunal's decision. In other words, he has by appealing secured the protection of 'the badge' for a consecutive period of over 11 months to date. I hope that he will have been able to re-take the test before my decision reaches him. But if not, he will be free to apply to do so at any point up to 9 October 2024, a date less than five months from now. He will not need a trainee licence in order to continue with his preparations. I agree with the remarks on the nature and purpose of the training licence system contained in the Respondent's response and on its website (see above). Those points argue convincingly against this appeal.

Outcome

13. For the reasons stated, I dismiss the appeal.

(Signed) Anthony Snelson
Judge of the First-tier Tribunal

Date: 21 May 2024