



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

NCN [2024] UKFTT 00469 (GRC).

Appeal Reference: D/2024/46

Decided without a hearing on 23 May 2024

Before

JUDGE ANTHONY SNELSON

Between

TEKLE WELDESLASE

Appellant

and

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

DECISION

The decision of the Tribunal is that the appeal is struck out.

REASONS

1. This is the appeal of the Appellant, Mr Tekle Weldeslase, against the decision of the Registrar of Approved Driving Instructors ('the Registrar'), conveyed in a letter of 8 December 2024, to refuse his request for a third 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 to take part three 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

5. Trainee licences are governed by the Act and the Motor Cars (Driving Instruction) Regulations 2005. By the Act, s129(1) it is provided that such 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)).

6. 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. But the Regulations, reg 14(b) provides that any trainee licence lapses on the day immediately following a trainee's third unsuccessful attempt at the part three test.

7. 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)).

8. Under the Tribunal Procedure (FTT) (General Regulatory Chamber) Rules 2009, rule 8(3)(c), the Tribunal has power to strike out an appellant's case, or part of it, if it considers that there is no reasonable prospect of that case (or part) succeeding.

The key facts

9. The background facts can be summarised as follows.

9.1 Mr Weldeslase has passed parts one and two of the examination.

9.2 On Mr Weldeslase's application, the Registrar granted him two consecutive trainee licences.

9.3 While the second licence was current, Mr Weldeslase applied to the Registrar for a third licence. That application was refused by the letter of 8 December 2023, to which I have already referred. The effect of the appeal was to extend the life of the second licence, but that was subject to it being brought to an end pursuant to the Regulations, reg 14(b) (see above).

9.4 Mr Weldeslase took the part three test on three occasions but, unfortunately, was unsuccessful each time. The last was on 1 February 2024.

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).

9.5 The Registrar wrote to Mr Weldeslase on 5 February 2024 inviting him to withdraw his appeal but, so far as I am aware, he has not replied.

Conclusion

10. I am satisfied that this appeal must be struck out. The second trainee licence (as extended by the appeal) was brought to an end on 2 February 2024 as a consequence of Mr Weldeslase failing the part three test for the third time. That failure also had the consequence of making it legally impossible for the Tribunal to uphold his appeal. He is compelled by the legislation, if he wishes to persevere with his ambition to qualify as an ADI, to start again at the part one stage. He will need to pass parts one and two before he will be in a position to apply afresh for the chance to take the part three test. Since the appeal cannot succeed, the only proper course is to strike it out.

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

Date: 23 May 2024