



NCN [2024] UKFTT 485 (GRC).

Appeal number: D/2023/573V

**FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
TRANSPORT**

Heard remotely by CVP.

On: 4 June 2024

Decision given on: 11 June 2024

Before

TRIBUNAL JUDGE PETER HINCHLIFFE

between

JOHN HACKWOOD

Appellant

- and -

**THE REGISTRAR OF APPROVED
DRIVING INSTRUCTORS**

Respondent

The hearing took place on 4 June 2024. Mr Hackwood represented himself. Claire Jackson of the DVSA represented the Respondent.

With the consent of the parties, the form of the hearing was to take place by video. The hearing took place with the Tribunal, Mr Hackwood and Ms Jackson attending by video. The hearing used the Tribunal Service's CVP Video Hearing System. I found that a hearing by phone and video conference was suitable for this case and avoided delay whilst being compatible with the proper consideration of the issues.

Documents to which I was referred included a bundle of 18 pages containing the decision that is the subject of the appeal, the notice of appeal and the evidence from

the parties, the parties' correspondence and documentation relating to the appeal. These bundles and the statement of case were available to the parties and the Tribunal in electronic form and the parties confirmed that they had received and had seen such bundles.

Prior notice of the hearing had been published on the gov.uk website, with information about how representatives of the media or members of the public could apply to join the hearing remotely in order to observe the proceedings. As such, the hearing was held in public.

DECISION

The appeal is dismissed.

REASONS

Background to Appeal

1. This appeal concerns a decision of the Registrar of Approved Driving Instructors ("the Registrar") made on 21 November 2023 to refuse to grant Mr Hackwood a further trainee licence.
2. Mr Hackwood 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 from 17 April to 16 October 2023, He requested a further licence extension at the end of this period. This was refused by the Registrar.
3. The Registrar's reasons for refusal were explained in the decision dated 21 November 2023 (the "Decision") and were, in summary, that Mr Hackwood had failed to comply with the conditions set out in the trainee licence and that the duration of the trainee licence that had been issued to Mr Hackwood should have been sufficient to permit Mr Hackwood to gain the experience required to pass the final part of the Approved Driving Instructors ("ADI") qualifying examination. In the Registrar's view, Mr Hackwood had been given ample opportunity to pass his ADI Part 3 test. Furthermore, it was not Parliament's intention that a training licence should be granted for as long as a trainee instructor requires in order to pass the Part 3 test. There is no requirement that someone taking a Part 3 test has to have a trainee licence, so Mr Hackwood remains in a position to take the test.

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

4. Mr Hackwood now appeals the Decision.

Appeal to the Tribunal

5. Mr Hackwood submitted a Notice of Appeal dated 30 November 2023 stating that the appeal should succeed because he needs more time as a trainee instructor in order to prepare for his ADI Part 3 test. He is committed to becoming a driving instructor. There have been difficulties and delays finding dates for Part 3 tests, where a long backlog has built up. Mr Hackwood believed that a further period with a trainee licence would assist him in undertaking the training required to pass the ADI Part 3.

The Law

6. 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 in the Motor Cars (Driving Instruction) Regulations 2005².

7. 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’.

8. 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.

9. 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 I am informed that people qualify as an Approved Driving Instructor without having held a trainee licence.

10. 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.

11. When making its Decision, 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 decision³ as the person tasked by Parliament with making such decisions.

² http://www.legislation.gov.uk/ukxi/2005/1902/pdfs/ukxi_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

The burden of proof in satisfying the Tribunal that the Registrar's decision was wrong rests with Mr Hackwood.

Evidence

12. The Registrar stated in advance of the hearing that as Mr Hackwood had applied for a new licence before the expiry date of his then current licence, the licence remained in force at the present time and allowed Mr Hackwood to continue to give driving instruction until the determination of this appeal. A trainee licence is not intended to give a trainee a source of income, but was issued for the purposes of training and preparation. The Registrar stated that Mr Hackwood had failed to meet the training objectives during the period of his trainee licence as he had not submitted an ADI 21AT form that showed that he had received 20 hours or more of tuition in that period. Mr Hackwood has failed the ADI Part 3 test on one occasion.

13. The papers in the bundle showed that Mr Hackwood was notified of this issue with meeting his training objectives by the Registrar prior to the Decision and asked to make representations. Mr Hackwood had not submitted any representations.

14. At the hearing, Mr Hackwood repeated the grounds of his appeal at the hearing. He said that he had been told by his instructor, that he needed more experience. His main income now came from driving instruction. He had relied upon the AA to complete the forms required for his ADI training. Mr Hackwood confirmed he was rearranging a second Part 3 test date.

15. At the hearing Ms Jackson, for the Registrar, explained that Mr Hackwood had not submitted his training record as required and that it was his responsibility as well as the training school. She stated that Mr Hackwood had now had a trainee licence for 13 months by virtue of this appeal process.

16. Mr Hackwood explained that he had left the submission of his training record to the AA, who were providing him with instruction through his ADI training. He was not aware of a problem.

Conclusion

17. I have carefully considered all of the evidence and submissions before me.

18. I note that, as the Registrar has pointed out, Mr Hackwood does not need to hold a trainee licence to take further attempts at the Part 3 test and thus further tests will not be jeopardised by the dismissal of this appeal. The overall period in which Mr Hackwood has been able to give driving instruction is now 13 months, which should have provided a reasonable opportunity to obtain the practical experience envisaged by the Act.

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>.

19. In all the circumstances of this appeal I conclude that against the background of the above findings Mr Hackwood's appeal fails for the reasons set out in the Decision and because he has had sufficient opportunity to prepare himself for the Part 3 test since his trainee licence was first issued on 17 April 2023.

20. The appeal is dismissed with immediate effect.

Signed

PETER HINCHLIFFE
Judge of the First-Tier Tribunal

DATE: 4 June 2024

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