



Neutral citation: NCN [2024] UKFTT 00604 (GRC).

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

Appeal Number: D/2024/114

**Determined on the papers
On 9 July 2024**

Decision given on 09 July 2024

Before

JUDGE OF THE FIRST-TIER TRIBUNAL J K SWANEY

Between

VITALY MAZAYEV

Appellant

and

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

Representation

Appellant: In person
Respondent: Ms C Jackson

DECISION

1. The appeal is dismissed.

REASONS

Background

2. The appellant appeals against the decision made by the Registrar of Approved Driving Instructors (the Registrar) on 18 January 2024 to refuse his application for a third trainee licence.
3. The appellant was granted two trainee licences valid for a total period of 12 months from 28 November 2022 to 27 November 2023.

4. On 26 November 2023 the appellant applied for a third trainee licence. By an email dated 12 December 2023 the respondent notified the appellant that consideration was being given to the refusal of his application. He was invited to make representations.
5. The appellant replied and on 22 December 2023. He stated that he had been unable to use the trainee licence for a period of three or four months because of circumstances arising from the war in Ukraine. He stated that this was because he was busy trying to persuade his mother to come from Ukraine to the United Kingdom and then when she agreed, moving her to the United Kingdom. The appellant also stated that he was taking practice with an approved driving instructor (ADI), which is expensive. He stated that his insurer would not insure him unless he had a licence and that he had booked to sit his part 3 examination on 23 February 2024.
6. On 18 January 2024 the respondent refused the appellant's application.

The respondent's decision

7. The respondent gave the following reasons for the decision made on 18 January 2024:
 - (i) The appellant had already had a trainee licence for twelve months.
 - (ii) There was no evidence to demonstrate a lack of pupils or a lack of practice time.
 - (iii) It was not Parliament's intention that candidates should be issued with trainee licences for as long as it takes them to pass the examination or that the trainee licence scheme should become an alternative to registration as a fully qualified ADI.

The appellant's case

8. The appellant lodged a notice of appeal dated 30 January 2024.
9. In his grounds of appeal the appellant states that he was unable to fully utilise his trainee licence because he was dealing with his mother's relocation from Ukraine to the United Kingdom and that he was going back and forth to Ukraine delivering humanitarian aid. He stated that he had been unable to use his trainee licence for four to five months.
10. The appellant notes that the situation in Ukraine was difficult for him and his family, but that now his mother is in the United Kingdom, he can concentrate on his work. The appellant noted that he was taking practice with an ADI and that all of his students passed their driving test on the first attempt. He considered that his teaching skills are good, but need polishing.

The appeal hearing

11. The appeal was heard by video and there was no objection to that being a suitable method of hearing. The appellant attended the hearing and gave evidence. I also heard submissions from both parties. In determining the appeal I considered the oral evidence and submissions together with the appeal bundle which was produced by the respondent. The appellant confirmed that he had received a copy of the appeal bundle.

The law

12. The circumstances in which a person may be granted a trainee licence are set out in section 129 of the Road Traffic Act 1998 (the Act) and the Motor Cars (Driving Instruction) Regulations 2005 (the Regulations).
13. Pursuant to regulation 3, the qualifying examination consists of three parts: a written examination (part 1); a driving ability and fitness test (part 2); and an instructional ability and fitness test (part 3).
14. A candidate is permitted three attempts at each part. The whole examination must be completed within two years of passing part 1, failing which the candidate must retake the whole examination. Once a candidate has passed part 2 they may be granted a trainee licence.
15. The purpose of the trainee licence is to enable a person to acquire practical experience in giving instruction in driving motor cars with a view to undergoing such part of the examination referred to in section 125(3)(a) as consists of a practical test of ability and fitness to instruct, which is part of the qualifying examination to become an Approved Driving Instructor (ADI).
16. The appellant has a right of appeal against the respondent's decision pursuant to section 131 of the Act. On appeal the tribunal may make such order as it thinks fit.
17. It is for the appellant to show on the balance of probabilities that the respondent's decision was wrong.

Findings and reasons

18. The appellant's case has evolved slightly from what is set out in his grounds of appeal. The case now is that he needs a further trainee licence so that he is able to get insurance to sit his part 3 test.
19. The respondent's position is that the purpose of the trainee licence is to allow a person an opportunity to gain experience of instruction and that he has had sufficient time to do so. The respondent does not consider that he has shown that a further trainee licence is necessary.
20. The appellant has already had the benefit of two trainee licences. In addition to the twelve months between 28 November 2022 and 27 November 2023, because his application for a further licence was made before the expiry of his existing one, that licence has continued. This means that the appellant has now had the benefit of a continuing trainee licence between 27 November 2023 and 9 July 2024 (the date of hearing). This more than seven months, which in excess of the duration of the third trainee licence he sought.
21. In his oral evidence the appellant stated that in addition to the reasons given in his notice of appeal, on 2 December 2023 he injured his knee which meant that he had been unable to work for a further period. He stated that it was only around two months ago, i.e. in May 2024 that he had resumed teaching. I note that despite having injured his knee at the beginning of December 2023, he did not state that this was preventing him from giving driving instruction in his notice of appeal. It is unclear as to the extent to which the appellant's knee injury meant that he was in fact unable to give instruction.
22. The appellant was booked to sit his part 3 exam on 26 February 2024 (according to the respondent's records), but cancelled the test. He explained that this was because he did not have any students at that time who were at a suitable stage in their learning. He stated that he

did not want to sit his part 3 test with a brand new student and the only one with some driving experience had managed to sit and pass his driving test before 26 February 2024. I accept that this is the case.

23. The appellant confirmed that he had had difficulty obtaining insurance because insurers insisted on a trainee licence. He stated that he had approached a number of insurers. He confirmed that he was aware that his trainee licence continued while his appeal was outstanding and that he had informed his insurer of this fact. While I accept the appellant's evidence that his insurer has been taking steps to ensure that he has a trainee licence, the appellant did not state that he was without insurance or unable to give instruction. I acknowledge that the appellant is concerned that he will not be insured for his part 3 test which is booked for 28 August 2024 if he does not have a trainee licence. While this may be a difficulty for him, the appellant did not indicate that he had asked any insurers whether they would provide insurance specifically for the purpose of sitting his part 3 exam (as opposed to covering him for providing paid instruction). This is something he may wish to investigate.
24. The appellant stated that he has been having sessions with an ADI where he acts as the instructor and the ADI acts as the student to improve his skills. He has also been able to resume teaching for the last two months. I accept that the appellant has been taking steps to make sure that he is ready to sit his part 3 test.
25. The tribunal has considered the appellant's circumstances with regard to moving his mother to the United Kingdom. The appellant stated in oral evidence that his mother arrived in the United Kingdom in 2023. He could not remember the exact date, but said it was around two months before he injured his knee. This would have been approximately October 2023. There is therefore a period of approximately two months when the appellant could have been providing instruction and working towards sitting his test in 2023 taking into account his various difficulties. In addition, on his evidence he has also had a period of around two months since he returned to work following his injury in 2024.
26. The appellant has until 4 September 2024 to complete all three parts of the qualifying test. He does not require a trainee licence to either book or sit the part 3 test.
27. Having considered all of the evidence, I find that the appellant has not shown that the respondent's decision is wrong. The appellant's oral evidence is that he believes that he is ready to sit the part 3 test and that he is capable of passing. It appears that the only reason he now requires the trainee licence is to secure insurance. It is not a requirement of the Act or the Regulations that a person have a trainee licence in order to sit the part 3 test and the appellant's issues with insurance are not of themselves a sufficient reason to issue a third trainee licence. As I have said, the appellant may wish to explore whether he can obtain insurance specifically for the purpose of sitting that test.
28. For all of those reasons, the appeal is dismissed.

Signed J K Swaney

Date 9 July 2024

Judge J K Swaney
Judge of the First-tier Tribunal