



Neutral citation number: [2024] UKFTT 00849 (GRC)

Case Reference: FT/D/2024/0120

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

**Heard remotely by CVP
On: 20 September 2024**

Decision given on: 24 September 2024

Before

JUDGE DAMIEN MCMAHON

Between

MD KHAIRUL ISLAM

Appellant

-and-

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

Representation

Appellant: The Appellant appeared on his own behalf.
Respondent: Claire Jackson

Decision: The appeal is Dismissed. The Decision of the Respondent made on 24 January 2024 is confirmed.

REASONS

1. This appeal was listed for determination remotely, by CVP, today, at 11.00. The Appellant attended and gave oral evidence. A representative of the Respondent also attended by CVP and gave oral evidence and made oral submissions.
2. The Appellant appealed against a decision of the Respondent dated 24 January 2024, to refuse the Appellant's application for a further, third, trainee driving instructor licence made on 14 November 2023. The decision of the Respondent was made, taking account of representations made by the Appellant on 8 and 22 December 2023, namely, that he was a single parent caring for two young daughters; that he had medical problems affecting his back and knee; that he had been involved in a car accident causing increased pain while driving and that he had to visit his sick mother in Bangladesh, where he also got married, purportedly adducing written evidence in support of these representations. The Respondent decided that there was not sufficient evidence of lost training time provided by the Appellant; that the Appellant had received the benefit of two trainee licences, covering a 12 month period from 28 November 2022 to 27 November 2023, for the purpose of gaining sufficient expertise in driving tuition to pass a Part 3 test, a period that was claimed to be more than adequate; that it was not the intention of Parliament that trainee licences be issued for as long as it takes an applicant to pass their Part 3 test and that the trainee licence system could not be an alternative to registration as a fully-qualified Approved Driving Instructor ('ADI'); that it was not necessary to hold a trainee licence to undertake a Part 3 test; that refusal of a trainee licence application was not a bar to taking a Part 3 test and that his second trainee licence remained in force until the determination of this appeal as he had applied for a third trainee licence before the expiry of his second trainee licence (that, in practical terms, meant he had the benefit of a trainee licence for 22 months).
3. In their Response dated 8 February 2024, the Respondent noted, in addition, that while there was some evidence concerning flights undertaken by the Appellant, this was before the Appellant applied for his second trainee licence and that the letter, written in 2020, setting out the Appellant's caring responsibilities, was a letter written before he started the Approved Driving Instructor ('ADI') qualification process. The Response also confirmed that the Appellant had failed a Part 3 test once on 14 November 2023 and that he had cancelled Part 3 test appointments on four occasions.
4. In oral evidence, the Respondent's representative, in addition, advised that the cancellation for 23 November 2023 should be ignored in fairness to the Appellant, but that he had also cancelled Part 3 test appointments for 23 February and 7 October 2024 and that the Appellant had previously held two trainee licences from 28 November 2022 to 27 November 2023. She also submitted that if the Appellant had been unable to use a trainee licence due to medical conditions, or any other reason, he should have surrendered his trainee licence, whereupon the Respondent may have looked more favourably on the Appellant's application for a third trainee licence.
5. The Appellant submitted an appeal on 2 February 2024 against the Respondent's said decision on the following grounds:

- that in March 2024 he had to go to Bangladesh to see his sick mother, where he got married while there, his wife coming to the UK in September 2023 but had to be shown everything;
- that he was a single father caring for two young daughters;
- that he had suffered back and knee pain for a long time that, sometimes, gave him issues with standing and sitting, making it hard to press the brake pedal of his vehicle, and was receiving treatment and getting further investigations, with his pain getting worse since his vehicle accident on 28 July 2023;
- that it was difficult to get another Part 3 test date, having failed a Part 3 test on 14 November 2023;
- that his trainer had not been available;
- that it was very hard to prepare for a Part 3 test without a trainee licence.

The grounds advanced by the Appellant did not, in fact, address the reasons advanced by the Respondent for the decision under appeal.

6. In his oral evidence, the Appellant submitted that there was only 'a few days' until his 'final' attempt at a Part 3 test; that to be an ADI was his 'dream job'; that unless he had another trainee licence, he would have to pay insurance on his vehicle without payment for providing tuition.
7. This appeal concerns a decision of the Respondent to refuse the Appellant's application for a further, third, ADI trainee licence. The powers of the Tribunal in determining this appeal are set out in s.131 of the Road Traffic Act 1988 ('the Act'). In determining the appeal, the Tribunal may make such order as it thinks fit, standing in the shoes of the Respondent, considering the decision afresh on the evidence available to it, giving appropriate weight to the Respondent's reasons for their decision. The burden of proof in satisfying the Tribunal that the Respondent's decision was wrong rests with the Appellant.
8. The essential basis of the Respondent's decision was that the Appellant had been provided, under two trainee licences, more than adequate time to gain sufficient experience to pass his Part 3 test.
9. An appeal to this Tribunal against the Respondent's decision proceeds as an appeal by way of re-hearing, that is, the Tribunal makes a fresh decision on the evidence before it. The Tribunal must give such weight as it considers appropriate to the Respondent's reasons for its decision as the Respondent is the regulatory authority tasked by Parliament with making such decisions. The Tribunal does not conduct a procedural review of the Respondent's decision-making process.
10. In reaching my decision I have taken into account all of the evidence and submissions that I received, written and oral, and considered all of the circumstances relevant to this appeal.
11. There was little or no dispute as to the material facts of this case.

12. Accordingly, the appeal is dismissed.

Signed: ***Damien McMahon,***

Tribunal Judge

Date: 20 September 2024