



Neutral citation number: [2025] UKFTT 00217 (GRC)

Case Reference: FT.D.2024.0798

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

**Heard remotely by CVP
Decision given on: 21 February 2025**

Before

JUDGE BRIDGET SANGER

Between

MAHIR AHMAD

Appellant

and

REGISTRAR FOR APPROVED DRIVING INSTRUCTORS

Respondent

Decision: The appeal is dismissed.

REASONS

Introduction

1. This is an appeal against a decision of the Registrar of Approved Driving Instructors ('the Registrar'), made on 5th September 2024, to refuse to grant the Appellant a third trainee licence.
2. The Appellant appeared at the hearing. The Registrar did not appear and was not represented.

3. On 3rd January a notice was sent to the parties giving notice of the hearing on 17th February. I am therefore satisfied that the Registrar had notice of the hearing. This Tribunal has been notified that the Registrar has made a decision not to attend trainee licence appeal hearings for the foreseeable future.
4. Rule 36 allows the Tribunal to continue in the absence of a party if it is satisfied that the party has been notified of the hearing or that reasonable steps have been taken to notify the party, and it is in the interests of justice to do so.
5. I took account of the overriding objective and was satisfied that it was in the interests of justice to proceed.

Legal Framework

6. The grant of a trainee licence enables applicants to provide instruction for payment before they are qualified.
7. A trainee licence may be granted in the circumstances set out in s. 129 of the Road Traffic Act 1988 ('the Act') and the Motor Cars (Driving Instruction) Regulations 2005.
8. 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.'
9. 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').
10. Three attempts are permitted at each part. The Part 3 test must have been applied for within 2 years of passing Part 1. Failing that, the whole examination has to be retaken.
11. If a candidate has passed Part 2, they may be granted a trainee licence. The grant of a trainee licence enables applicants to provide instruction for payment before they are qualified. It is possible to qualify as an Approved Driving Instructor without having held a trainee licence.
12. 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.
13. 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 decision as the person tasked by Parliament with making such decisions.

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

Factual Background to the Appeal

15. The Appellant had not previously been on the Register of Approved Driving Instructors.

16. The Appellant passed Part 1 of the Qualifying Examination on 7th July 2023. He passed Part 2 on 27th July 2023.

17. The Appellant was in receipt of a trainee licence which was valid from 14th August 2023 to 13th August 2024.

18. On 8th August 2024 the Appellant applied for a third trainee licence. This was before the expiry of his second trainee license.

19. The Appellant failed his first attempt at the Part 3 test on 27th February 2023.

20. On 12th August 2024 the Appellant was informed, by the Registrar, that he was considering refusing the application and invited to make representations.

21. The Appellant made representations on 16th August 2024. He stated that the Part 3 test had been attempted in February 2024, that he had been advised to undertake further training, and that he had found it impossible to book a test on the website.

22. The application was refused on 5th September 2024.

23. The reason for the Registrar's decision, in summary, was that the appellant had failed to provide any evidence of lost training time.

24. According to the Registrar, as at 27th September 2024, no further attempts at the Part 3 test had been booked.

Appeal to the Tribunal

25. The Appellant filed an appeal against the decision of the Respondent on 17th September 2024.

26. The grounds of appeal were, in summary, that he had found it difficult to get a date for the Part 3 test. Having failed his first attempt in February 2024, the next available date was in August 2024. He was not able to take that test as he caught pneumonia and was therefore not well enough.

27. The Registrar, in his response, states:

- a. the purpose of the provisions governing the issue of licences is to afford applicants the opportunity of giving instruction to members of the public whilst endeavouring to achieve registration. The system of issuing licences is not and must not be allowed to become an alternative to the system of registration;
- b. the licence granted to applicants is not to enable the instructor to teach for however long it takes to pass the examinations, but to allow up to six months experience of instruction. This provides a very reasonable period in which to reach the qualifying standard in the examination and in particular, to obtain any necessary practical experience in tuition. The Appellant has already had two trainee licences which cover a period of 12 months. Moreover, by virtue of the Appellant having applied for a third licence before the expiry date of the second, that licence has remained in force to the present time and will allow him to continue to give paid instruction until determination of the appeal;
- c. since passing his driving ability test the Appellant has failed the instructional ability test once. Despite ample time and opportunity the Appellant has not been able to reach the required standard for qualification as an Approved Driving Instructor;
- d. the refusal of a third licence does not bar the Appellant from attempting the instructional ability test of the Register examinations. He does not need to hold a licence for that purpose, nor is it essential for him to give professional tuition under licence in order to obtain further training. The Appellant could attend a training course, or study and practice with an Approved Driving Instructor or give tuition on his own (provided that he does not receive payment of any kind for this). These alternatives are used by some trainees who acquire registration without obtaining any licences at all.
- e. it should be noted [*as at 27th September 2024*] that the Appellant has not yet booked his second attempt at the instructional ability test.

Evidence

28. I read and took account of a bundle of documents.

29. I heard evidence from the Appellant, who told me that:

- a. The Appellant had not been able to book a confirmed test further to the first attempt in February 2024 and had been asking other trainee instructors to look for and book tests on his behalf, which could then be transferred into his name.
- b. He did not want to book tests “on hold” as he felt this would be viewed badly by DVSA if he had to cancel them when they came through.
- c. A test in August, which was referred to in the appeal form but did not appear on the Registrar’s papers, had not been booked by the Appellant but had been

booked by a colleague. The colleague had been planning to transfer it into the Appellant's name but that test did not transpire because the Appellant was unwell with pneumonia.

- d. Last year the Appellant caught pneumonia twice in two months: first in July 2024 and again in August 2024, further to a camping trip. Each time he was bedbound for approximately three weeks.
- e. He had taken a second attempt at his Part 3 test in October 2024 and had failed that. He was told he needed further training and signed up with a new teacher.
- f. Since October 2024 the Appellant had not been able to prioritise his training because he was trying to buy a house with his brother, which he moved into on 2nd December 2024.
- g. In January 2025 the Appellant had to go to Pakistan. He described the trip as one he was compelled to make, owing to a problem with some land, rather than one he chose to make. He was away for 21 days and returned home on 11th February but suffered with food poisoning for several days.
- h. The Appellant feels that he is now in a position to prioritise his training and will be booked in with his trainer every week for the foreseeable future.
- i. The Appellant does not currently have a Part 3 test booked or on hold but has determined that he will now book a test on hold.
- j. The Appellant works for a driving school but described himself as working on a self-employed basis, using his own car and choosing his own hours.
- k. The Appellant confirmed that he was getting a few pupils through the driving school, although not a lot.
- l. The Appellant described the psychological hit of failing the Part 3 test. The first time he took it, he felt ready but he was nervous for the second attempt and remains nervous of any future attempts.

Discussion and Conclusions

30. I may overturn the decision of the Registrar if I am of the opinion that it was wrong. The burden is on the Appellant to show this.
31. I accept the evidence of the Appellant with regard to the training time he has lost and the interruption to his training caused by his illness (pneumonia) and his trip to Pakistan.
32. However, there was no compelling evidence as to why the Appellant had not been able to focus on his training between August 2024 and January 2025. While it is

commonly understood that buying a house and moving house can be stressful, the Appellant's evidence did not point to any circumstances that made it especially so. There was no given reason the Appellant could not have continued to work and train while proceeding with the transaction.

33. The Appellant did not appear to have had difficulty obtaining training hours at the driving school. Indeed he confirmed that he chose his own hours and was allocated pupils by the driving school.
34. I note that the Appellant has already had the benefit of trainee licences, initially covering a period of 12 months from August 2023 to August 2024 and, by virtue of this application, up to today's date. This is almost 18 months, which should have been adequate time to prepare, even taking into account the circumstances which the Appellant described.
35. The trainee license is not a substitute for taking and passing the test. It is not the purpose of trainee licences to keep renewing them until all attempts at passing Part 3 have been taken.
36. Having weighed all matters in the balance, the Appellant has not persuaded me that the Registrar's decision was wrong in any way. In all the circumstances, I agree with the Registrar's decision and the appeal is dismissed.

Signed: Judge Bridget Sanger

Date: 17th February 2025