



NCN: [2025] UKFTT 60 (GRC)

Case Reference: FT/D/2024/0555

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

**Heard by Cloud Video Platform
Heard on: 14 January 2025
Decision given on: 30 January 2025**

Before

**TRIBUNAL JUDGE HEALD
TRIBUNAL JUDGE THOMAS BARRETT**

Between

FARHAT IKRAM

Appellant

and

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

Representation:

The Appellant attended in person
For the Respondent: No attendance

Decision: The Appeal is Dismissed

REASONS

1. This Appeal was commenced on 29 June 2024 by the Appellant pursuant to section 131(2)(a) Road Traffic Act 1988 ("the Act"). It relates to a Decision made by the Respondent ("the Registrar") dated 19 June 2024 ("the Decision") to refuse a third trainee licence.
2. What follows is a summary of the submissions, evidence and our view of the law. It does not seek to provide every step of our reasoning. The absence of a reference by us to any specific submission or evidence does not mean it has not been considered.

Background and relevant law

3. The Appellant's name is not on the Register of Approved Driving Instructors ("the Register") and is therefore prohibited from giving paid driving instructions by section 123 (1) of the Act unless he holds a licence issued by the Registrar pursuant to section 129(1) of the Act and in accordance with The Motor Cars (Driving Instruction) Regulations 2005.
4. To qualify as an Approved Driving Instructor an applicant is required to pass a Qualifying Examination. This is in 3 parts namely part 1 being a written examination, the driving ability and fitness test in part 2 and the instructional ability and fitness test in part 3. Three attempts are allowed at each part. The whole examination (parts 1-3 inclusive) must be completed within two years of passing part 1. If this is not done then the whole examination has to be retaken
5. A Section 129(1) licence may be granted by the Registrar once an applicant has passed part 2. This 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 referred to in section 125(3)(a) as consists of a practical test of ability and fitness to instruct."

6. By section 129(3) of the Act

"The Registrar may refuse to grant a licence under this section to an applicant to whom such a licence has previously been issued."

7. By section 129(8)(c) of the Act

"before deciding whether or not to refuse the application, the Registrar must take into consideration any such representations made within that period."

8. By section 129(4) of the Act if such an application is refused the Registrar must give notice of that in writing to the applicant and provide the grounds of refusal.

9. By section 129(6) of the Act:-

"Notwithstanding any provision of regulations made by virtue of subsection (5) above prescribing the period for which a licence is to be in force, where a person applies for a new licence in substitution for a licence held by him and current at the date of the application, the previous licence shall not expire –

(a)until the commencement of the new licence, or

(b) if the Registrar decides to refuse the application, until the time limited for an appeal under the following provisions of this Part of this Act against the decision has expired and, if such an appeal is duly brought, it is finally disposed of."

Role of the Tribunal

10. Section 131(2) of the Act provides:-

"A person who is aggrieved by a decision of the Registrar –

(a) to refuse an application for the grant of a licence under this Part of this Act, or

(b) to revoke such a licence,

may appeal to the First-tier Tribunal"

11. The Appellant has the burden of proof in satisfying the Tribunal that the Registrar's decision was wrong.

12. Section 131 (3) of the Act provides that the Tribunal may make such order:-

(a) for the grant or refusal of the application

or,

(b) for the removal or the retention of the name in the register, or the revocation or continuation of the licence,

(as the case may be) as it thinks fit.

13. Section 131(4A) of the Act provides that, in addition, if the Tribunal is provided with evidence that was not before the Registrar at the relevant time it may remit the matter back to the Registrar.

14. 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 being the person tasked with making such decisions.

Evidence and matters considered

15. At the Appeal we heard from the Appellant. The Registrar did not attend. We also had a bundle of papers provided by the Respondent. In this Decision page numbers indicated by their inclusion in brackets refer to pages of the Bundle.

Chronology

16. In summary:-

(a) the Appellant passed his part 1 test on 7 February 2023 and his part 2 on 23 March 2023 (19)

(b) he was granted two licences by section 129(1) which enabled him lawfully to provide paid driving instruction (without his name being on the Register) from 22 May 2023 to 21 May 2024

(c) on 12 May 2024 the Appellant applied for a 3rd licence

(d) the Appellant was notified on 15 May 2024 (16) that the Registrar was considering refusal of the application about which the Appellant made representations on 26 May 2024.

(e) on 19 June 2024 the Registrar notified the Appellant that his representations had been considered but the Decision was to refuse the application for a 3rd licence.

17. The Appellant's Appeal is against the Decision.

The Registrar's grounds of refusal

18. From the letter of the 19 June 2024 (1) we noted that the Registrar's grounds were these:-

(a) no evidence had been provided of lost training time.

(b) two 6 months licence periods had been granted which was considered a "*more than adequate period of time*" to pass the ADI qualifying examination.

(c) it is not the purpose of the licence scheme to allow candidates "*...as long as it takes*" to pass the examination.

(d) the trainee licence system "*must not be allowed to become an alternative to registration as a fully qualified Approved Driving Instructor.*"

The Grounds of Appeal (8)

19. In summary the Appellant's grounds of appeal were that while he had not passed the part 3 despite two attempts:-

(a) the Registrar's decision is wrong because he had a genuine reason for losing practice time for his final part of the ADI and that he was unable to find test dates

(b) he had a family member's health issue to deal with and this diverted him

(c) if he cannot have a licence he will not be able to have pupils and this will harm his ability to pass the test

20. The outcome he seeks (9) is:-

"I believe that an other extension to my trainee licence should be allowed so I can take my ADI part 3 final attempt to pass my ADI part 3 by using one of my pupils who I have trained and also use dual control car which is required for ADI part 3"

21. We noted that these grounds were broadly the same as the representations made by the Appellant on 26 May 2024 (17).

Registrar's response (12)

22. In the response the additional information we noted was:-

(a) *"since passing his driving ability test the Appellant has failed the instructional ability test twice and cancelled eleven more such tests booked for 19 September, 27 & 30 November 2023 and 04 January, 13 February, 19 March, 26 April, 17 June, 31 July and 22 & 28 August 2024. Despite ample time and opportunity the Appellant has not been able to reach the required standard for qualification as an Approved Driving Instructor";*

(b) *"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"*

(c) *"...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"*

(d) *"It should be noted that the Appellant has not yet [as at 24 July 2024] booked his final attempt at the instructional ability test."*

The Appellant's further representations

23. In considering this Appeal we kept in mind that the Appellant is a litigant in person ("LiP") and we had regard to the guidance from the Equal Treatment Bench Book concerning the courts duty to a LiP and the difficulties and challenges they may face.

24. The Appellant told us at the Appeal that (in summary):-

(a) he agreed with the Registrar's position referred to at paras. 18(c) and (d) above

(b) he had continued preparing for the test since the refusal in May 2024 including by having paid and some unpaid pupils with just a small amount of interruption of about a month

(c) in October 2024 he applied for a test and a date has been given for the 22 January 2025

(d) he needs to know the outcome of the Appeal as this might impact the contractual position with AA

Tribunal's Review

25. Since the 3rd application was refused the Appellant was able to continue on as a paid driving instructor pending the outcome of this Appeal by section 129(6) of the Act. Additionally, and as notified to him by the Registrar in the refusal letter, that refusal of the licence did not prevent the Appellant taking the ADI test.

26. The Appellant had the benefit of a trainee licence from 22 May 2023 to 21 May 2024 and from his submissions we noted at most a period of a month where he was diverted away from this by a family health issue. Since the refusal to the date of this Appeal there has been a further 7 months of which for one he was away. In all this is about 19 months.
27. We took account of the evidence in the Bundle (19) that showed that between September 2023 and August 2024 the Appellant had failed the part 3 test on 7 September 2023 and 22 November 2023 but also cancelled a part 3 test on 11 occasions.
28. There was no material information provided to us about which the Registrar was not aware when making the Decision.

Decision

29. The Appellant has not persuaded us that the Registrar's decision was wrong and accordingly the Appeal is dismissed.

Signed: Tribunal Judge Heald

Date: 20 January 2025