



Neutral citation number: [2024] UKFTT 1110 (GRC)

Case Reference: FT-D-2024-495

First-tier Tribunal
(General Regulatory Chamber)
Transport

Heard at: Decided without a hearing
Decision given on: 11 December 2024

Before

JUDGE PERI MORNINGTON

Between

IFTIKHAR AHMED

Appellant

and

REGISTRAR FOR APPROVED DRIVING INSTRUCTORS

Respondent

Decision: The appeal is allowed.

REASONS

Introduction

1. This is an appeal against a decision of the Registrar of Approved Driving Instructors ('the Registrar') made on 8 May 2024 to refuse to grant the Appellant a third trainee licence.

Legal Framework

2. The grant of a trainee licence enables applicants to provide instruction for payment before they are qualified.

3. 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.
4. 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.'
5. 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').
6. 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.
7. 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.
8. 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.
9. 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. The burden of proof in satisfying the Tribunal that the Registrar's decision was wrong rests with the Appellant.

Factual Background to the Appeal

10. The Appellant passed Part 1 of the Qualifying Examination on 5 April 2023. He passed Part 2 on 15 May 2023. He failed his first attempt at the Part 3 test on 18 June 2024. At the date the bundle was prepared, there were no further Part 3 tests booked by the Appellant.
11. The Appellant applied for a trainee licence which was granted and was valid from 23 October 2023 to 22 April 2024.

12. The Appellant, having not taken any Part 3 test during the period of his first trainee licence, applied for a second trainee licence on 12 April 2024, which was refused by the Registrar.
13. As the Appellant applied for a second trainee licence before the previous licence expired, this means that, at the date of the hearing, the Appellant has been the beneficiary of a trainee licence for just over 13 months.
14. The reasons for the Registrar's decision, in summary, were that the Appellant had already had a sufficient amount of time to gain experience to assist in passing Part 3 of the Qualifying Examination and that it was not the intention of Parliament that candidates should be issued with trainee licences for as long as it takes them to pass the examination, and that the trainee licence system must not be used as an alternative to registration as a fully qualified Approved Driving Instructor.

Appeal to the Tribunal

15. The grounds of appeal are, in summary:
 - a. The Appellant is the father of four young children with his fourth child being born on 19 April 2024. During his wife's pregnancy, she experienced complications which required frequent hospital visits including overnight stays. This meant that the Appellant had additional responsibilities at home in caring for his other three children. The Appellant says that this affected his availability to undertake training.
 - b. The Appellant struggled to secure an insurance policy to cover his trainee driving instructor sessions. This meant that he was unable to use his licence for 1 month as he was uninsured.
16. 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. Moreover, by virtue of the Appellant having applied for a second licence before the expiry date of the first, 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. 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 second 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.

Evidence

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

Discussion and Conclusions

18. I have carefully considered the papers before me.

19. I accept that the Appellant has dealt with additional caring responsibilities at home due to the complications with his wife's pregnancy and the young family he has.

20. I further accept that he had difficulty in obtaining relevant insurance and lost time in using his trainee licence because of this.

21. I note that the Appellant has not cancelled any Part 3 tests and has unfortunately failed one test on 18 June 2024.

22. Whilst I note that the Appellant has had the benefit of a trainee licence for a further period of over 7 months up to today, I accept that the circumstances of the Appellant have meant that he has not had reasonable opportunity to obtain the practical experience envisaged by the Act.

23. Having weighed all matters in the balance, the Appellant has persuaded me that the appeal should be allowed.

24. The decision of the Registrar, made on 8 May 2024, is set aside. Accordingly, the appeal is allowed.
25. The Appellant is granted a second trainee licence with effect from the date of this Decision.

Signed: Judge Peri Mornington

Date: 9 December 2024