



Neutral citation number: **[2024] UKFTT 532 (GRC)**

Case Reference: D/2024/030

First-tier Tribunal

**General Regulatory Chamber
Transport**

**Determined at an oral hearing on the
on 20th June 2024**

Before

HHJ DAVID DIXON

Between

LOUIS ANSAH

and

**THE REGISTRAR OF APPROVED
DRIVING INSTRUCTORS**

Appellant

Respondent

Decision: The appeal is dismissed, with immediate effect.

REASONS

Background to Appeal

1. This appeal concerns a decision of the Registrar of Approved Driving Instructors (“the Registrar”) made 14th December 2023 to refuse to grant the Appellant a third trainee licence.
2. The Appellant is a trainee driving instructor who was granted a trainee licence under s.129 of the Road Traffic Act 1988¹ (‘the Act’) for a six-month period, and then another, but was refused a further licence at the end of the relevant period.
3. The Registrar’s reasons for refusal, in summary, were that the Appellant had not passed the final part of the ADI qualifying examination within the relevant period and as insufficient evidence of loss of training time was supplied that the Appellant had had long enough to progress, and the application to issue a third trainee licence was therefore refused.
4. The Appellant now appeals the Registrar’s decision.

Appeal to the Tribunal

5. The Appellant’s Notice of Appeal, 23rd December 2023, indicates he struggled with stress and the pressure of the Part 3 examination. It has take some time, but now he is ready to take the test but this will require a further licence. He asks for the assistance of the third licence now that he is ready to move forward and be a good ADI.
6. The Registrar provided a response indicating the Appellant had been licensed since November 2022. The Registrar indicated that in his view the Appellant had had long enough to train and that no basis was shown to grant a third licence.
7. The Registrar indicates that the Appellant has cancelled 5 tests and failed to complete a further 2 more Part 3s.

Mode of Determination

8. The Appeal was listed for oral determination and the case was heard via the CVP system.
9. The Appellant did not attend. The Tribunal telephoned the Appellant and he indicated that he was going to attend. He would simply await the outcome.
10. The Respondent was represented by Ms Claire Jackson of the appeals team.

¹ <http://www.legislation.gov.uk/ukpga/1988/52/part/V/crossheading/licences>

11. The Tribunal considered a bundle of evidence containing 18 pages.

The Evidence

12. The Respondent maintained its position as per the decision letter via Ms Jackson. Ms Jackson indicated he had a 2nd Part 2 attempt booked for the 2nd July 2024.

13. The Appellant provided nothing further than the documentation.

The Law

14. The grant of a trainee licence enables applicants to provide instruction for payment before they are qualified. The circumstances in which trainee licences may be granted are set out in s. 129 of the Act and the Motor Cars (Driving Instruction) Regulations 2005².

15. 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’.

16. 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’). 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.

17. If a candidate has passed part 2, they may be granted a trainee licence. However, holding a trainee licence is not a prerequisite to qualification as an Approved Driving Instructor and many people qualify as an Approved Driving Instructor without having held a trainee licence.

18. 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.

19. When making its Decision, the Tribunal stands in the shoes of the Registrar of approved Driving Instructors and takes a fresh decision on the evidence available to it, giving appropriate weight to the Registrar’s decision³ 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.

Conclusion

² http://www.legislation.gov.uk/uksi/2005/1902/pdfs/uksi_20051902_en.pdf

³ See *R (Hope and Glory Public House Limited) v City of Westminster Magistrates’ Court* [2011] EWCA Civ 31. <http://www.bailii.org/ew/cases/EWCA/Civ/2011/31.html>. Approved by the Supreme Court in *Hesham Ali (Iraq) v Secretary of State for the Home Department* [2016] UKSC 60 at paragraph 45 – see <https://www.supremecourt.uk/cases/docs/uksc-2015-0126-judgment.pdf>.

20. The Tribunal considered carefully all the papers and evidence before it.
21. In fixing a period of 6 month to allow for trainee instructors to progress Parliament must have had in mind that we are all subject to differing life events that affect our ability to undertake certain tasks. Sometimes those events are so unusual or have such a bearing on an individual that it will be entirely appropriate to find that a longer than normal period of time should be allowed to complete a task. Here the Appellant has indicated that he suffered with stress and anxiety when facing his Part 3 test. No external loss of training opportunity is identified. The Appellant must have known of his difficulties before attempting this process.
22. In total now the Appellant has been licensed for 18 months. He has had more than sufficient time to pass his Part 3, even allowing for the charitable approach to the Appellant's position. The appeal must fail, there is no arguable basis for a further licence to be granted.
23. The Appellant is still able to attempt his Part 3 if he wishes to, and the Tribunal him well in his final attempt in a few days.
24. Appeal dismissed with immediate effect.

(Signed)

HHJ David Dixon

DATE: 20th June 2024