



Neutral citation number: [2024] UKFTT 612 (GRC)

Case Reference: FT/D/2024/0157

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

**Determined on the Papers
On: 11 July 2024**

Decision given on: 18 July 2024

Before

JUDGE Damien McMahon

Between

VARNA FARZAN

Appellant

and

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

Decision: The appeal is Dismissed. The Respondent's decision made on 7 February 2024 is confirmed.

REASONS

Background

1. This appeal concerns a decision of the Respondent made on 7 February 2024 to refuse to grant the Appellant a third trainee licence.
2. The Appellant is trainee driving instructor who had been granted two trainee licences under s.129 of the Road Traffic Act 1988 ('the Act') for the periods from 5 December 2022 to 4 June 2023 and from 3 July 2023 to 2 January 2024, respectively, but who was refused an application for a further trainee licence.
3. The Respondent's reasons for refusal, in summary, were that the Appellant had already

had time to gain sufficient experience to pass the final part of the Approved Driving Instructor qualifying examination.

4. The Appellant appealed the said decision of the Respondent to the Tribunal.

Appeal to the Tribunal

5. The Appellant's Notice of Appeal, dated 16 February 2024, relied on an assertion that she had various difficulties in booking and passing her required test pursuant to Part 3 of the Act and wanted a trainee licence to remain in place until a decision was made. (It was not clear whose decision the Appellant had in mind that this was not of relevance to the ultimate determination of this appeal).

The Response of the Respondent.

6. The Response of the Respondent, dated 21 February 2023, relied on the fact that the purpose of a trainee licence was to gain practical experience of teaching pupils for payment in order to undergo the instructional ability examination and it was not intended that a trainee licence should be held for however long it took the Appellant to pass the Part 3 examination. In other words, a trainee licence could not be permitted to be an alternative to registration as an Approved Driving Instructor. These representations were noted, as was the fact that the Appellant had passed her driving ability test but had failed to pass her instructional ability test on one occasion (and had cancelled two more such tests booked for 14 February 2023 and 17 July 2023, respectively, acknowledging, too, that the Respondent had cancelled a test booked for 26 May 2023). The Tribunal noted that a test had been booked for 22 April 2024.

Mode of Determination

8. The parties and the Tribunal agreed that this matter was suitable for determination on the papers in accordance with Rule 32 of The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009, as amended ('the Rules'). The Tribunal considered a bundle containing 28 pages.

The Law

9. 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 2005 ('the Regulations').

10. 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'.

11. 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').

12. 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.

12. 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 at all.

13. 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.

14. When making its Decision, the Tribunal stands in the shoes of the Respondent 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.

Evidence

15. The parties did not file any witness statements. I have seen the Appellant's test history; her application for the trainee licence previously granted; her application for a second trainee licence, and the correspondence passing between the parties.

Conclusion

16. I have considered carefully all the papers before me. I note that the Appellant has already had the benefit of two trainee licences covering a period of 12 months which is adequate to prepare for the Part 3 test. She is able to continue to gain experience and take the test without a trainee licence, and it 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.

17. The Appellant has not persuaded me that the Respondent's decision was wrong in any way. In all the circumstances, I agree with the Respondent's decision, and I dismiss this appeal.

Signed

Date: 11 July 2024

Damien McMahon, Tribunal Judge

Promulgated on 18 July 2024