



Neutral citation number: [2024] UKFTT 625 (GRC)

Case Reference: FT/D/2024/0177

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

**Decided without a hearing  
Decision given on: 23 July 2024**

**Before**

**DISTRICT JUDGE WATKIN**

**Between**

**CHANGHEZ MOHAMMED AKHTAR**

Appellant

**and**

**REGISTRAR OF APPROVED DRIVING INSTRUCTORS**

Respondent

**Decision:** The appeal is dismissed

### **REASONS**

1. The Tribunal has determined this matter without a hearing in accordance with rule 32 of the Tribunal Procedure (First-tier Tribunal) (General 2 Regulatory Chamber) Rules 2009. Both parties have consented to the matter being determined without a hearing and the Tribunal is satisfied that it can properly determine the issues without a hearing.
2. The Tribunal has considered the paginated bundle provided together with the relevant law.

### **The Relevant Law**

3. To qualify as an Approved Driving Instructor (“ADI”), applicants must pass the Qualifying Examination. This includes:

- a. the written examination.
- b. the driving ability and fitness test ("Part 2").
- c. and the instructional ability and fitness test ("Part 3 Test").

Three attempts are permitted at each part. The whole examination must be completed within 2 years of passing Part 1, failing which the whole Qualifying Examination has to be retaken.

4. Where a candidate has passed Part 2, they may be granted a trainee licence. This enables them to provide instruction for payment before they qualify. The circumstances in which trainee licences may be granted are set out in s.129 of the Road Traffic Act 1988 (the "Act") and the Motor Cars (Driving Instruction) Regulations 2005 (the "Regulations")

5. S. 129 (1) of the Act provides as follows in relation to trainee licences:

*"A licence 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. A trainee licence shall continue until a) 6 months after it was granted or b) the day after the holder fails the Part 3 Test for the third time (Paragraph 14 of Schedule 5 of the Regulations). However, where the holder has applied for a new licence whilst the existing licence remains current, then the existing licence will not expire until either a) the commencement of the new licence or b) the time for appealing to the Tribunal has expired (if no appeal is made) or the time when the appeal is finally disposed of (s.129(6)).

7. S.131 of the Act sets out the circumstances in which a person aggrieved by a decision of the Respondent may apply to the Tribunal. These include the refusal of an application for the grant of a licence.

8. The Tribunal may order the grant or refusal of the application as it thinks fit. (s.131(3)).

9. When making its Decision, the Tribunal stands in the shoes of the ADI Registrar and takes a fresh decision on the evidence available to it, giving appropriate weight to the ADI Registrar's decision as the person tasked by Parliament with making such decisions. The burden of proof in satisfying the Tribunal that the ADI Registrar's decision was wrong rests with the Appellant.

## Background

10. The history of this matter is that the Appellant had the benefit of a trainee licence from 7 August 2023 to 6 February 2024. He applied for a second licence on 19 January 2024 and his application was refused.
11. On 14 February 2024, the Respondent wrote to the Appellant (the “Decision Letter”) informing him that his application for a second trainee licence was refused for the following reasons:
  - a. The Appellant failed to comply with the conditions of his first licence.
  - b. The Appellant has been granted one trainee licence of 6 months’ duration which is considered to be a more than adequate period of time.
  - c. Parliament did not intend for licences to be issued for as long as it takes a candidate to pass the examination and the trainee licence system must not be allowed to become an alternative to registration.
12. The Respondent informed the Appellant within the Decision Letter that he may appeal against the decision within 14 days.
13. The Appellant appealed to the Tribunal by Form GRC1 dated 25 February 2024, stating:
  - a. that he was not able to start training until mid-September 2023 as his car was fitted with dual controls at the end of August 2023 and he then went on holiday until mid-September
  - b. he suffered a further delay in November when his driving instructor went away for the month. At the date the Appeal was submitted, he had recently started training with another training provider.
  - c. he has tried to book the Part 3 Test several times but that there were no early dates available. He does not state whether he has tried to book a Part 3 Test for a later date.
  - d. driving instructing is his only source of income.
14. The Appellant’s trainee licence will have continued pursuant to s.129(6).

15. The Respondent provided a Statement dated 28 February 2024 (the “Respondent’s Statement”) expanding on the reasons for refusing the application. They are summarised as follows:
- a. The system of issuing licences is not to become an alternative to the system of registration
  - b. He has provided no evidence of lost training time.
  - c. He has failed to comply with the condition of his first trainee licence. However, the Respondent does not provide details of the condition that has been breached or the precise manner in which it has been breached.
  - d. He has provided evidence of only 12 weeks supervision on his training record.
  - e. The licence is not to enable the instructor to teach for however long it takes to pass the examinations.
  - f. By virtue of him having applied for a second licence prior to the expiry of the second, that licence remains in force.
  - g. The Appellant has had ample time and opportunity to reach the required standard of qualification.
  - h. The refusal of a trainee licence does not bar the Appellant from attempting the Part 3 test.

### **Decision**

16. Due to the date of the Appeal notice having been submitted a significant time ago, it is not clear whether the Appellant has since passed the Part 3 Test. If he proceeded and was successful, this Appeal is no longer of any consequence to him.
17. The Tribunal, therefore, considers this Application on the basis that either that Part 3 Test did not proceed or, if it did proceed, the Appellant was unsuccessful.
18. As the Respondent has not provided the Tribunal with details of the breach of condition by the Appellant, that is not taken into account.
19. Whilst the Appellant has produced some evidence showing that he was away for a two-week period at the beginning of September, he provides no documentary evidence in relation to any of the other matters that he states have prevented him from progressing, e.g. that he had his car modified in August, that his driving

instructor was away for November, that he has not been able to obtain a test date. In any event, he only appears to have sought “early” dates as opposed to any dates and, therefore, does not appear to have properly turned his mind to the requirement that he sits the Part 3 Test.

20. The information provided in relation to test dates shows only that the Appellant tried to obtain “Early dates” and then only in mid-December. Thereafter, he has waited for the DVSA to contact him which does not show him to be proactively working towards passing the Part 3 Test.
21. As submitted by the Respondent, the purpose of the trainee licence is not to enable the Appellant to take as long as he wishes to apply for his Part 3 Test or as a substitute for passing the test. It is noted, however, that the Appellant has had significant additional time to enable him to pass his Part 3 Test during the time that the Appeal has been ongoing by virtue of s.129(6).
22. In the circumstances, the Appeal is dismissed, and the decision of the Respondent is confirmed dated 14 February 2024

Signed District Judge Watkin

Date: 15 July 2024

Promulgated on: 23 July 2024