



Neutral citation number: [2024] UKFTT 823 (GRC)

Case Reference: FT/D/2024/0217

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

**Heard by Cloud Video Platform  
On: 11 September 2024**

**Decision given on: 13 September 2024**

**Before**

**JUDGE DAMIEN MCMAHON**

**Between**

**GERALD MCPHAIL**

Appellant

**-and-**

**REGISTRAR OF APPROVED DRIVING INSTRUCTORS**

Respondent

**Representation:**

For the Appellant: The Appellant appeared on his own behalf.

For the Respondent: Claire Jackson

**Decision:** The appeal is Dismissed. The Decision of the Respondent made by the Respondent on 21 February 2024 is confirmed.

**REASONS**

1. This appeal was listed for remote oral hearing by CVP on 11 September 2024, as directed by the GRC Registrar in Case Management Directions dated 9 August 2024, following a Case Management Hearing on that date. The Appellant attended and gave oral evidence and made oral submissions, as did the representative of the Respondent.

2. The Appellant appealed against a decision of the Respondent dated 21 February 2024, to refuse the Appellant's application for a second trainee driving instructor licence made on 29 January 2024. The Appellant made no representations against the stated intention of the Respondent to refuse his application, representations having been invited on 30 January 2024, on the grounds that the Appellant had failed to meet his training obligations within the first three months of being issued with his first trainee licence. The Respondent also maintained, in making their decision, that it was not the intention of Parliament that Approved Driving Instructor ('ADI') candidates be issued trainee licences for however long it might take them to pass their Part 3 test and that the trainee licence system could not be allowed to become an alternative to registration as a fully-qualified ADI; that refusal of the Appellant's application did not prevent him undertaking a Part 3 test (subject to there being a maximum permitted number of attempts); that it was not necessary to hold a trainee licence to undertake a Part 3 test and that the Appellant's existing first trainee licence remained valid until determination of this appeal (as his application for a second trainee licence had been made before the expiry of his first trainee licence), providing him with a total trainee licence period of over 13 months and that, in granting the Appellant his first trainee licence, for six months, the Respondent submitted the Appellant had been granted a very reasonable period to reach the instructional ability qualifying standard and, in particular, to obtain any necessary practical experience in driving instruction to pass his instructional ability test (that is, his Part 3 test).
3. In oral submissions, the Respondent's representative also confirmed that the Appellant had failed two attempts at passing his Part 3 test on 30 January 2024 and on 24 July 2024 and that his final permitted attempt was booked to take place on 11 November 2024.
4. The Respondent's representative also confirmed that the Appellant had still provided no evidence of his required training obligations having been completed.
5. The Appellant submitted an appeal on 5 March 2024 against the Respondent's said decision on the following grounds:
  - that he had difficulty in booking a Part 3 test (but had, in fact, undertaken two Part 3 tests and had booked his final attempted Part 3 test to take place on 11 November 2024);
  - that refusal of his application for a second trainee licence would cause him financial difficulties;
  - that he needed a second trainee licence to book another Part 3 test as soon as possible (an assertion that was simply misconceived).
6. In his oral evidence, the Appellant accepted that he could provide driving tuition without holding a trainee licence so long as he received no payment, in kind or otherwise, but that he needed a trainee licence in order to generate an income and to meet expenses such as paying a franchise fee to lease a vehicle. He submitted that his partner had been granted three trainee licences. He also submitted that he

had found his training records two weeks previously but had not submitted them to the Respondent, seeing no point in doing so pending the outcome of this appeal. He submitted that he wanted to be able to provide paid tuition until he undertook his final attempt to pass his Part 3 test on 11 November 2024, pointing out, too, that he had pupils to undertake their driving tests next week and in early October. He also, again referred to a difficulty in booking Part 3 tests.

7. The Respondent's representative confirmed that, due to current circumstances, of some vintage, the Respondent was issuing more second trainee licences than previously, but that it was very unusual that a third trainee licence would ever be issued. She further submitted, again, that the reason the Appellant's application for a second trainee licence was refused was his failure to comply with the conditions of his existing trainee licence by submitting his required training records.
8. This appeal concerns a decision of the Respondent to refuse the Appellant's application for a second ADI trainee licence. The powers of the Tribunal in determining this appeal are set out in s.131 of the Road Traffic Act 1988 ('the Act'). In determining the appeal, the Tribunal may make such order as it thinks fit, standing in the shoes of the Respondent, considering the decision afresh on the evidence available to it, giving appropriate weight to the Respondent's reasons. The burden of proof in satisfying the Tribunal that the Respondent's decision was wrong rests with the Appellant.
9. An appeal to this Tribunal against the Respondent's decision proceeds as an appeal by way of re-hearing, that is, the Tribunal makes a fresh decision on the evidence before it. The Tribunal must give such weight as it considers appropriate to the Respondent's reasons for its decision as the Respondent is the regulatory authority tasked by Parliament with making such decisions. The Tribunal does not conduct a procedural review of the Respondent's decision-making process.
11. In reaching my decision I have taken into account all of the evidence and submissions that I received, written and oral, and considered all of the circumstances relevant to this appeal.
12. Accordingly, the appeal is dismissed.

Signed: *Damien McMahon*,

**Tribunal Judge**

**Date: 11 September 2024**