



Neutral citation number: [2024] UKFTT 825 (GRC)

Case Reference: FT/D/2024/0209

**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**

**PAMELA ASQUITH**

Appellant

**-and-**

**REGISTRAR OF APPROVED DRIVING INSTRUCTORS**

Respondent

**Representation:**

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

For the Respondent: Claire Jackson

**Decision:**

The appeal is Dismissed. The Decision of the Respondent made by the Respondent on 14 February 2024 is confirmed.

**REASONS**

1. This appeal was listed for remote oral hearing by CVP on 11 September 2024. 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 14 February 2024, to refuse her application for a second trainee driving instructor licence made on 19 January 2024, taking account of representations made by her on 15 and 30 January 2024, respectively, namely, that she had selected the option of 'supervisory training' in error on her application form; that she had not omitted her house number and that there was a lack of Part 3 test availability dates and that she wanted a trainee licence until such times as she undertook her Part 3 test, on the grounds that the Appellant had failed to comply with the conditions of her existing trainee licence, that was of six months duration, in that the training record submitted by her (both for the 'supervisory' option and the other option) were not in compliance with the terms of her trainee licence and that a trainee licence of six months' duration was more than adequate time to gain experience to pass her Part 3 test. However, if that were the substantive reason for refusal of the Appellant's application, in view of the difficulties faced by applicants in getting a Part 3 test appointment, there would be a stronger case to allow this appeal. However, that was not the substantive reason for the decision under appeal. The Respondent in its decision also, correctly, noted that it was not the intention of Parliament that an applicant be issued with a trainee licence for however long it might take to pass their Part 3 test and that the system of trainee licences could not become an alternative to registration system as a fully-qualified Approved Driving Instructor ('ADI'). The purpose of a trainee licence is only to allow the applicant the opportunity to gain sufficient expertise to pass their Part 3 test – nothing more. It is the case in law that refusal of the Appellant's application for ascend trainee licence does not prevent her undertaking a Part 3 test (subject to there being a maximum permitted number of attempts); that it is 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 her application for a second trainee licence had been made before the expiry of her first trainee licence), providing her with a total trainee licence period of 13 months. This was undoubtedly a more than reasonable period to allow the Appellant to reach the instructional ability qualifying standard and, in particular, to obtain any necessary practical experience in driving instruction to pass her instructional ability test (that is, her Part 3 test).
3. In oral submissions, the Respondent's representative elaborated on the substantive reason for refusal of the Appellant's application for a second trainee licence, namely, her failure to comply with the conditions of her initial trainee licence in respect of training records. The Respondent's representative confirmed that the Appellant had not inserted her house number on her application form (that was contained in the appeal bundle) and had ticked the 'supervisory' option, an option that did not envisage training being recorded and submitted by the Appellant. Further, it was submitted, even if the Respondent were to accept that the Appellant made a mistake in ticking the 'supervisory' option, the submission by the Appellant of training records (applicable only to the other 'additional training' option), could not be accepted as these were not submitted within three months of the Appellant being granted her initial trainee licence. The Respondent's representative confirmed that the Appellant had failed her Part 3 test on 20 May 2024 and had an appointment to undertake a second attempt on 20 September 2024.
4. The Appellant submitted an appeal on 22 February 2024 against the Respondent's said decision on the following grounds:

- that the decision was unfair;
  - that she had lost a week of her trainee licence period by the licence not arriving with her (due, the Respondent maintained, to the Appellant not including her house number on her application) - an assertion denied by the Appellant;
  - that she had submitted training records (but these were only applicable if the Appellant had not chosen the 'supervisory' option, an option she admitted had been chosen by her but that this was due to an error on her part but, in any event, the training record was not submitted on time even if that option had been chosen);
  - difficulty in booking a Part 3 test (but she had, in fact, undertaken one Part 3 test unsuccessfully and was booked to take another Part 3 test on 20 September 2024);
  - that she could not reach the required standard if she could not provide daily tuition. (However, possession of a trainee licence is not necessary to gain practical experience in driving tuition to reach the required standard to pass a Part 3 test: the only advantage of holding a trainee licence is that an applicant can require payment, in kind or otherwise, to provide driving tuition);
  - that she wanted a second trainee licence while awaiting a date to undertake her Part3 test (a ground that had no substance and represented a misunderstanding of the purpose of a trainee licence).
5. In her oral evidence, the Appellant accepted that she did not need a trainee licence in order to undertake a Part 3 test but that she wanted to be able to receive payment in providing driving tuition. She maintained, again, that she had made an error in ticking the 'supervisory' option on her application; that she was unaware of any relevant timescales; that she had been advised by her trainer that there would be 'no problem' in this regard and that she did not have to submit training records until her training was complete. (The Appellant seems to have been misadvised in this regard). The Appellant maintained that she understood she should have been provided with an appointment to undertake a Part 3 test within her initial six-month trainee licence period. (This, however, subject to paragraph 2 of this Decision, was a misconception on the part of the Appellant). The Appellant maintained that she had put her house number on her application form. The Tribunal rejected that assertion. She also continued to maintain that she had ticked the 'supervisory' option in error. Even if this were the case, and not merely a change of mind in hindsight, having regard to the Respondent's letter to her of 19 January 2024, this assertion was of no substance in determining this appeal.
6. 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.

7. 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**