



**Neutral citation: [2024] UKFTT 00914 (GRC)**

**Appeal Number: FT/D/2024/0330**

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

**Determined on the papers on 07 October 2024**

**Decision issued on: 25 October 2024**

**Before Judge Brian Kennedy KC.**

**Between:**

**MUJAHID ALTAF**

**Appellant**

**and**

**REGISTRAR OF APPROVED DRIVING INSTRUCTORS**

**Respondent**

**DECISION**

**RE: PART V OF THE ROAD TRAFFIC ACT 1988**

1. The appeal is dismissed, and the Respondent's decision of 15 March 2024 is confirmed.

**REASONS**

**Background:**

2. The Appellant appeals against the decision made by the Registrar of Approved Driving Instructors (the respondent) on 15 March 2024 to refuse his application for a second trainee licence.
3. The Appellant is not now and has never been on the said Register.
4. A licence under Section 129 of the Act was granted to the Appellant for the purpose of enabling him to gain practical experience to undergo the examination of his ability to

give instruction in the driving of motor cars and was valid from 04 September 2023 to 03 March 2024.

5. On 24 February 2024 the Appellant applied for a second licence. By way of an email dated 26 February 2024 the Appellant was notified that the Respondent was considering the refusal of his application for a second licence. By way of an email received on 02 March 2024 the Appellant made representations. He stated his Father died shortly after he got his trainee licence, and he had to return to Pakistan and expanded upon the difficulties he had encountered generally.
6. After considering the Appellants representations the Respondent decided to refuse the Appellant's application. The Respondent sympathized with the Appellant's situation however, it was noted that the Appellant had failed to comply with the conditions of his first licence as the he has not completed all training objectives on his ADI 21AT training record form and notice of the Respondents decision, in accordance with Section 129(4) of the Act was sent to the Appellant by an email dated 15 March 2024
7. The Respondent has provided the following reasons for the decision made on 15 March 2024.
  - (i) the purpose of the provisions governing the issue of licences is to afford applicants the opportunity of giving instruction to members of the public whilst endeavouring to achieve registration. The system of issuing licences is not and must not be allowed to become an alternative to the system of registration.
  - (ii) the licence granted to applicants is not to enable the instructor to teach for however long it takes to pass the examinations, but to allow up to six months experience of instruction. This provides a very reasonable period in which to reach the qualifying standard in the examination and in particular, to obtain any necessary practical experience in tuition. Moreover, by virtue of the Appellant having applied for a second licence before the expiry date of the first, that licence has remained in force to the present time and will allow him to continue to give paid instruction until determination of the appeal.
  - (iii) since passing his driving ability test the Appellant has failed the instructional ability test once and cancelled one more such test booked for 15 May 2024. Regrettably, DVSA cancelled one such test booked for 16 May 2024. Despite ample time and opportunity, the Appellant has not been able to reach the required standard for qualification as an Approved Driving Instructor; and
  - (iv) the refusal of a second licence does not bar the Appellant from attempting the instructional ability test of the Register examinations. He does not need to hold a licence for that purpose, nor is it essential for him to give professional tuition under licence in order to obtain further training. The Appellant could attend a

training course, or study and practice with an Approved Driving Instructor or give tuition on his own (provided that he does not receive payment of any kind for this). These alternatives are used by some trainees who acquire registration without obtaining any licences at all.

8. It was also noted by the Respondent that the Appellant had his second attempt at the instructional ability test booked for 04 July 2024.
9. On 2 March 2024 the Appellant expanded on his unfortunate family circumstances and explained because of these he was unable to utilise his achievements so far and would lose his car, insurance etc. to gain sufficient experience. In effect in his grounds of appeal he infers that without continued practice it is impossible to maintain the high level of instruction that is required to pass the next level examination or be admitted to a waiting list to do so and that he needed to apply for a second trainee licence.

#### **The appeal:**

10. The Appellant lodged a notice of appeal dated 25 January 2024.
11. The Appellant elected to have his appeal determined with a hearing. There was no objection from the Respondent and the Oral appeal took place on 7 October 2024, and the Appellant reiterated his concerns as previously expressed.
12. In determining the appeal, I considered all the documents within the Hearing bundle including the Appellants' written representations together with such material medical evidence as he had supplied, and I explained to him the spirit of the Law involved and why circumstances such as family bereavement and ordinary life eventualities and other distractions cannot circumvent the practice of registration as intended by parliament.

#### **The law:**

13. This appeal relates to the refusal of a trainee licence which may be issued to a candidate who is preparing to sit the qualifying examination to become an ADI. The circumstances in which a person may be granted a trainee licence are set out in section 129 of the Road Traffic Act 1998 (the Act) and the Motor Cars (Driving Instruction) Regulations 2005 (the Regulations).
14. Pursuant to regulation 3 of the Regulations, the qualifying examination to become an ADI consists of three parts: a written examination (part 1); a driving ability and fitness test (part 2); and an instructional ability and fitness test (part 3).
15. A candidate is permitted three attempts at each part. The whole examination must be completed within two years of passing part 1, failing which the candidate must retake the whole examination. Once a candidate has passed part 2 they may be granted a trainee licence.

16. The purpose of the trainee licence is to enable 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, which is part of the qualifying examination to become an Approved Driving Instructor (ADI)
17. The Appellant has a right of appeal against the Respondent's decision pursuant to section 131 of the Act. On appeal the tribunal may make such order as it thinks fit.
18. Holding a trainee licence is not a prerequisite to qualifying as an ADI and nor is it a prerequisite to sitting part 2 of the examination. Aside from giving professional instruction under a trainee licence, there are other ways in which the Appellant could gain the skills needed to pass part 2. For example, he could attend a training course; study and practice with an ADI; or give tuition on his own as long as he does not receive payment for such tuition.
19. It is for the Appellant to show on the balance of probabilities that the Respondent's decision was wrong. I am particularly persuaded by part 7. (iv) of the Respondents reasoning wherein they have explained that the refusal of a second licence does not bar the Appellant from attempting the instructional ability test of the Register examinations. He does not need to hold a licence for that purpose, nor is it essential for him to give professional tuition under licence in order to obtain further training. The Appellant could attend a training course, or study and practice with an Approved Driving Instructor or give tuition on his own (provided that he does not receive payment of any kind for this). These alternatives are used by some trainees who acquire registration without obtaining any licences at all.
20. It is for the Appellant to show on the balance of probabilities that the Respondent's decision was wrong and for the above reasons The Tribunal finds he has not established that the Decision under appeal was wrong in Law and accordingly I must dismiss the appeal.
21. For all of these reasons, I find that the Respondent was correct to refuse the Appellant's application and I must dismiss this appeal.

Signed *Brian Kennedy*

Judge Brian Kennedy KC

09 October 2024.

Promulgated on: 25 October 2024