



Neutral citation number: [2025] UKFTT 00106 (GRC)

Case Reference: FT/D/2024/0771

FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
(TRANSPORT)

Determined on the papers
On: 30 January 2025

Decision given on: 5 February 2025

Before

JUDGE DAMIEN MCMAHON

Between

YASIR SHAFIQUE

Appellant

-and-

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

Decision: The appeal is Dismissed. The Decision of the Respondent made on 28 August 2024 is confirmed.

REASONS

1. This appeal was listed for determination on the papers only, with the agreement of the parties.
2. The Appellant appealed against a decision of the Respondent dated 28 August 2024, to refuse the Appellant's application for a further, third, trainee driving instructor licence made on 22 July 2024. The decision of the Respondent was made, taking account of representations made by the Appellant, in writing, on 18 August 2024, namely, that there was a lack of available dates to undertake a Part 3

test, and other issues that he did not, at that stage, elucidate, leading to lost training time, on the grounds that the Appellant had been granted two trainee licences, covering a period of 12 months in total, from 7 August 2023 to 6 August 2024, to gain sufficient expertise in driving instruction to pass a Part 3 test, a time period that, it was submitted, was more than adequate; that it was not the intention of Parliament that a trainee licence be issued for however long it might take a candidate to become an ADI; that the trainee licence system must 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 a trainee licence was not required to undertake a Part 3 test and that the Appellant's existing second trainee licence remained valid until determination of this appeal (as his application for a third trainee licence had been made before the expiry of his second trainee licence), providing him, in practical terms, with a total trainee licence period of almost 18 months.

3. The Appellant submitted an appeal on 9 September 2024 against the Respondent's said decision on the following grounds:

- that while he understood the Respondent's reasoning for their decision, several factors had not been adequately considered;
- a lack of availability of Part 3 test dates had caused him to lose training time (having failed his first attempt on 16 May 2024) and impacting on his ability to progress within the expected time frame;
- that an 'inability' to practise in the absence of a further trainee licence would jeopardise his chances of successfully passing another attempt at a Part 3 test for which he was actively preparing, enhancing his teaching skills and theoretic knowledge;
- that he would be 'unable to continue providing lessons' if he did not get a third trainee licence and that this would affect his ability to maintain his skills and interest and would cause him to lose students, the consequences of which would be 'devastating' to his livelihood;
- that he should be given a third trainee licence due to the non-availability of Part3 test dates and his commitment to professional growth; being granted two previous trainee licences was not sufficient to enable him to gain the required experience due to the circumstances;
- that his situation was unique;
- that he needed to be able to continue teaching until he passed his Part3 test 'on his next attempt'.

4. The Respondent, in their Response dated 11 November 2024, submitted, in addition, that there was no evidence adduced by the Appellant of lost training time or a lack of pupils; that he had failed his Part 3 test on two occasions (16 May 2024 and 24 October 2024); that the Appellant's final permitted attempt to pass his Part3 test was booked on hold pending a date being offered to him and that, if he wished to gain further experience, he could undertake a training course, or study or practice with an ADI or provide unpaid tuition, pointing out that precedent existed whereby applicants succeeded in becoming registered as fully-qualified ADIs without having held any trainee licence.

5. Again, the purpose of a trainee licence, that is of six months' duration, is to allow an ADI applicant the opportunity of gaining practical experience in driving tuition in order to reach the required standard to pass a Part 3 test and, thereby, become registered as a fully-qualified ADI and it is not necessary to hold a trainee licence in order to undertake a Part 3 test. It must be emphasised that the Appellant in this case had, in practical terms, the benefit of a trainee licence for almost 18 months.
6. This appeal concerns a decision of the Respondent to refuse the Appellant's application for a further, third, 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 for their decision. The burden of proof in satisfying the Tribunal that the Respondent's decision was wrong rests with the Appellant.
7. The essential basis of the Respondent's decision was that the Appellant had been provided, under two trainee licences (albeit, in practical terms, he had the benefit of a trainee licence for almost 18 months) that was more than adequate time to gain sufficient experience to pass his Part 3 test.
8. 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.
9. In reaching my decision I have taken into account all of the evidence and submissions received, written and oral, and considered all of the circumstances relevant to this appeal.
10. There was little or no dispute as to the material facts of this case.
11. Accordingly, the appeal is dismissed.

Signed: *Damien McMahon*,

Tribunal Judge

Date: 30 January 2025