



Neutra Citation Number: **[2024] UKFTT 00467 (GRC)**.

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

Appeal Reference: D/2024/112

Decided without a hearing on 23 May 2024

Before

JUDGE ANTHONY SNELSON

Between

ASSAM SOHEL QASIM

Appellant

and

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

DECISION

The decision of the Tribunal is that the appeal is dismissed.

REASONS

1. This is the appeal of the Appellant, Mr Assam Qasim, against the decision of the Registrar of Approved Driving Instructors ('the Registrar'), conveyed in a letter of 12 January 2024, to refuse his request for a third trainee licence.
2. The matter was listed before me for consideration on the papers. I was satisfied that it was just and proper to decide the appeal without a hearing.

The statutory framework

3. The Road Traffic Act 1988 ('the Act'), s123(1) prohibits the giving of paid driving instruction except where the instructor's name is included in the Register of Approved Driving Instructors¹ ('the Register') or he/she holds a trainee licence.

4. Candidates for membership of the Register must fulfil a number of conditions. These include the requirement to pass an examination divided into three parts ('the examination'): theory; driving ability and fitness; and instructional ability and fitness (the Act, s125(3)(a)). They must apply for a part three test within two years of passing part one; if they do not, they must re-take the entire examination. Candidates who fail part three on three occasions must also re-take the entire examination.² And in this case the current trainee licence comes to an end on the day following the third test.³

5. By the Act, s129(1) it is provided that trainee licences are granted for the purpose of enabling prospective ADIs who have passed parts one and two of the examination to gain practical experience in driving instruction with a view to taking part three. Trainee licences are valid for six months only. The Registrar is expressly empowered to refuse to grant a trainee licence to an applicant to whom such a licence has previously been issued (s129(3)). It is clear from the language of s129 as a whole that trainee licences are not intended to serve as an alternative to registration.

6. The DVSA website (not, of course, a legal source) includes this advice:

You should return your trainee licence to DVSA if you are not using it, for example because of a long period of illness.

You will not get a refund, but DVSA will know that you have not had full use of the licence. This will be a factor in deciding whether to give you another licence in future.

On the subject of applications for further trainee licences it states:

You're more likely to get another licence if you told DVSA you had stopped using the first, for example because of a period of illness.

It's unlikely that you'll get another licence if you:

- **just want more time to pass the approved driving instructor (ADI) part 3 test**
- **did not follow the [rules for using your previous trainee licence](#)⁴**

7. The effect of the Act, s129(6) is that, where a holder of a temporary licence applies during its currency for a fresh licence, the life of the original licence is extended until the commencement of the new licence or, if the application is refused and the holder appeals, until disposal of the appeal.

8. By the Act, s131(2) an appeal lies to the First-tier Tribunal against a decision to refuse an application for the grant of a licence. On the appeal, the Tribunal may make such order for the grant or refusal of the application as it sees fit (s131(3)). In a different but analogous statutory context in *In the matter of the Bonas Group Pension Scheme* [2011] UKUT B 33 (TCC) Warren J, sitting in the Upper Tribunal, held that there was nothing to constrain the first-instance Tribunal's approach on appeal. Its function is simply to make its own decision on the evidence before it (which may differ from that before the statutory body whose decision

¹ Hereafter the usual abbreviation 'ADI' will be used.

² See the Motor Cars (Driving Instruction) Regulations 2005 ('the Regulations'), reg 3(4)(c) and (d).

³ The Regulations, reg 14(b)

⁴ These include a requirement to undertake a specified number of training hours over the first three months of the licence.

is under challenge). Despite this latitude, however, high authority of general application recognises two important points. First, the burden is on an appellant to persuade the Tribunal that the relevant decision should be overturned or otherwise interfered with. Second, the Tribunal should give careful consideration to the reasons for the decision being impugned, given that Parliament has invested the relevant body with exclusive authority (subject to appeal) to make decisions on such matters.⁵

The key facts

9. The background facts can be summarised as follows.

9.1 Mr Qasim passed parts one and two of the examination on 4 August and 16 November 2022 respectively.

9.2 On Mr Qasim's application, the Registrar granted him two consecutive trainee licences, covering the period from 12 December 2022 to 11 December 2023.

9.3 On 22 December 2023 Mr Qasim applied to the Registrar for a third licence. That application was refused by the letter of 10 January 2024, to which I have already referred.

9.4 Given the timing of the application for the third licence, the life of the second licence was extended by the Act, s129(6) to the date of disposal of this appeal (see above).

9.5 Mr Qasim booked part three tests for 23 May 2023, 28 September 2023, 27 November 2023 and 9 May 2024. He cancelled the second and fourth of these appointments; on the other two occasions he attended, but unfortunately was unsuccessful.

9.6 It appears that the May 2024 date had been cancelled before the submission of the Registrar's response to this appeal, which is likely to have been in or around February 2024 (I cannot state a date with any confidence because the response is wrongly dated 20 December 2024). I am not aware of any fresh date having been booked in the meantime.

The appeal

10. In his notice of appeal, which is wrongly dated 5 January 2024 (five days before the date of the decision challenged), Mr Qasim made five main points. First, he had struggled to acquire necessary teaching experience during the currency of the first two licences. Second, this difficulty was exacerbated by financial constraints limiting his capacity to pay for part three lessons. Third, his wife had experienced a troubled pregnancy culminating in the birth of their child in very early 2023 and significant health problems thereafter, which had placed considerable burdens on him as the primary carer of her and the baby. Fourth, these problems and pressures had taken their toll on him and his mental health and well-being had been affected. Fifth, he was and remained profoundly committed to his chosen career as an ADI. Generally, he urged the Tribunal to grant him a further six-month licence to enable him to complete the part three test.

11. The Respondent resisted the appeal, stressing the importance of not allowing trainee licences to serve as an alternative to the registration system and the fact that eligibility to take the part three test is not conditional upon possession of a trainee licence. Generally, it was contended that the decision which Mr Qasim seeks to challenge was solidly based and there was no good reason to disturb it.

⁵ See *eg R v Westminster Magistrates Court ex p Hope & Glory Public House Ltd* [2011] EWCA Civ 31, paras 39-48 (Toulson LJ).

Discussion and conclusions

12. I am not persuaded that there is a good reason to allow this appeal. I am very sorry to learn that Mr Qasim has had to contend with a number of significant pressures and difficulties over the past two years and extend my sincere sympathy to him. Nonetheless, I see nothing to justify the grant of a third licence. It seems to me that when he launched his appeal, he may have been under a misunderstanding as to how the rules work. As already explained, the effect of the appeal is that the current licence was automatically extended until the date of the Tribunal's decision. In other words, he has by appealing secured the protection of 'the badge' for a consecutive period of almost 18 months to date. There is nothing to justify any extension beyond the date of publication of my Decision. Mr Qasim may by then have passed the part three test. If so, this appeal will have become academic. If not, granting a further licence would serve no purpose since it would extend his protection by no more than a matter of days (licences have a fixed lifespan of six months and accordingly the licence for which he has applied, if granted, would expire on 11 June 2024). Moreover, in so far as they are relevant, I agree with the remarks on the nature and purpose of the training licence system contained in the Respondent's response and on its website (see above). Those points also argue convincingly against this appeal.

Outcome

13. For the reasons stated, I dismiss the appeal.

(Signed) Anthony Snelson
Judge of the First-tier Tribunal

Date: 23 May 2024