



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: EA/00724/2017

THE IMMIGRATION ACTS

**Heard at City Centre Tower, Decision & Reasons Promulgated
Birmingham**

On 29th January 2018

On 26th February 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE RENTON

Between

**EMIL COSMIN BOLTASIU
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Unrepresented

For the Respondent: Mrs M Aboni, Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. The Appellant is a citizen of Romania born on 8th August 1986. He claims to have resided in the United Kingdom since January 2007. On 12th October 2016 he applied for a residence card under the provisions of Regulations 6 and 15 of the Immigration (European Economic Area) Regulations 2006 on the basis that he qualified under the five year

residence Rule. That application was refused for the reasons given in a Notice of Decision dated 9th January 2017. The Appellant appealed, and his appeal was decided without a hearing by First-tier Tribunal Judge Gibbs (the Judge) at Hatton Cross. He decided to dismiss the appeal for the reasons given in his Decision dated 27th March 2017.

Error of Law

2. I must first decide if the decision of the Judge contained an error on a point of law so that it should be set aside.
3. The Appellant's case was that he was permanently incapacitated and not able to work during the qualifying period from 12th October 2011 to 12th October 2016. The Appellant did however produce payslips showing he was employed between March 2015 and February 2016. The Judge dismissed the appeal because the documents produced to him by the Appellant did not show that he had been certified unfit to work by a medical professional, and that he had not produced payslips or other documents to show that he had been otherwise employed throughout the qualifying period.
4. At the hearing before me, the Appellant appeared unrepresented. He did not apply for an adjournment, and indicated that he wished the appeal to proceed without his representation.
5. He referred to the grounds of application and argued that the Judge had erred in law in coming to his decision because he had not taken account of all the documents produced to him. However, in reply to questioning by me, the Appellant revealed that the documents proving his employment had not been submitted with the original application, and had been sent to the Respondent after the appeal had been decided on 28th February 2017. He said he had worked for Thorn International between 2009 and 2011, and thereafter until 2015 with Global Traders.
6. In response, Mrs Aboni referred to the Rule 24 response and argued that there had been no such error of law as the Judge had considered and dealt with all the documents before him. The documents which the Appellant complained had not been considered by the Judge had not been submitted to the Tribunal before the appeal had been decided. In any event, the Appellant had said in his application form that he had been incapacitated and incapable of work, which contradicted what he had said today.
7. I find no material error of law in the decision of the Judge. It is now clear that the documents which the Appellant said had not been dealt with by the Judge had not been before the Judge. They had been sent to the Respondent after the Judge had decided the appeal. The Judge had considered and dealt with all the documents before him. They did not show that the Appellant had been in employment or incapable of work throughout the qualifying period.

8. For these reasons, I find no error of law in the decision of the Judge.

Notice of Decision

9. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

10. I do not set aside that decision.

11. The appeal to the Upper Tribunal is dismissed.

Anonymity

12. The First-tier Tribunal did not make an order for anonymity. I was not asked to do so, and indeed find no reason to do so.

Signed

Date 21st February 2018

Deputy Upper Tribunal Judge Renton