



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

Appeal Number: EA/02814/2017

THE IMMIGRATION ACTS

**Heard at: Manchester
On: 1 March 2018**

**Decision & Reasons
Promulgated
On: 20 April 2018**

Before

UPPER TRIBUNAL JUDGE PLIMMER

Between

MARY BOATEY

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

Respondent

For the appellant: Ms Bassiri-Dezfouli, Counsel
For the respondent: Mr Harrison, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, a citizen of Ghana, has appealed against a decision of the First-tier Tribunal dated 26 May 2017 in which it dismissed an appeal against the decision of the respondent refusing her a residence card.
2. Mr Harrison conceded that there was an error of law in the decision such that it should be set aside and remitted to the First-tier Tribunal. This is because the First-tier Tribunal failed to make any findings of fact. The First-tier Tribunal did not have the benefit of Awuku v SSHD [2017] EWCA Civ 178, when the decision was signed on 20 May 2017, and this is likely to have influenced the absence of any findings in a

very short decision. I am satisfied that Mr Harrison was entirely correct to concede an error of law was made such that the decision must be set aside.

3. Both representatives agreed that the decision should be remade by the First-tier Tribunal. I have had regard to para 7.2 of the relevant *Senior President's Practice Statement* and the nature and extent of the factual findings required in remaking the decision, and I have decided that this is an appropriate case to remit to the First-tier Tribunal.
4. The appeal proceeded on the papers before the First-tier Tribunal. If it is considered that an oral hearing is more appropriate, the requisite steps to pay the necessary fee for an oral hearing should be made forthwith.

Decision

5. The decision of the First-tier Tribunal involved the making of a material error of law. Its decision cannot stand and is set aside.
6. The appeal shall be remade by First-tier Tribunal de novo.

Signed: Ms Melanie Plimmer
Judge of the Upper Tribunal

Dated: 1 March 2018