



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: EA/02846/2016

THE IMMIGRATION ACTS

Heard at Field House

**Decision and Reasons
Promulgated**

On 16 February 2018

On 21 February 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE BAGRAL

Between

**OLUWAKEMI MAJEKODUNMI
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: None (Appellant attended in person)

For the Respondent: Mr T Wilding, Senior Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. This is the Appellant's appeal against the decision of First-tier Tribunal Judge Sweet who in a decision promulgated on 15 August 2017 dismissed his appeal against a decision of the Respondent refusing to issue a permanent residence card to the Appellant as an extended family member under the Immigration (European Economic Area) Regulations 2006.

2. I do not need to set out the background to this case because the parties agree that the decision of Judge Sweet cannot stand for the reasons given below.
3. The First-tier Tribunal concluded that it had no jurisdiction to entertain the appeal following the case of **Sala (EFMs: Right of Appeal) [2016] UKUT 00411**.
4. In the light of **Khan v Secretary of State for the Home Department [2017] EWCA Civ 1755**, the First-tier Tribunal was wrong in law to conclude that it did not have jurisdiction to hear the appeal.
5. I therefore set aside the decision of the First-tier Tribunal, pursuant to section 12(2)(a) of the Tribunals, Courts and Enforcement Act 2007. I remit the case to the First-tier Tribunal at Taylor House for a hearing of the Appellant's appeal on a date to be notified.

Decision

The Appellant's appeal against the decision of the First-tier Tribunal is allowed. The appeal is remitted to the First-tier Tribunal at Taylor House to be heard on the next available date by a judge other than Judge Sweet.

Signed

Date: 16 February 2018

Deputy Upper Tribunal Judge Bagral