



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: EA/08186/2017

THE IMMIGRATION ACTS

Heard at Field House
On 5th July 2018

Decision sent to parties on
On 16th August 2018

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

LORENC XAIMI
(NO ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Arafin Ashraf, with JKR Solicitors

For the Respondent: Mr Paul Duffy, a Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals with permission against the decision of First-tier Tribunal Judge Birk, who dismissed his appeal against the respondent's decision that at the date of 11th April 2017 he was entitled to a residence card as the family member of an EEA national, pursuant to the Immigration (European Economic Area) Regulations 2016.
2. The First-tier Tribunal found as follows:
 - "8. The issue that I have to determine is whether or not the sponsor is a qualified person under Regulation 6 of the EEA Regulations 2006 and whether her work is genuine and effective.
 9. The documentary evidence consists of several HMRC self-assessment statements dated 15.6.17, 18.4.17 and 7.4.17 which does not identify the employer. There is a

letter dated 10.11.17 from Stephen Rosser, Chartered Accountants which states that the sponsor is employed by Jackson Enterprises Ltd since 10.1.17. He sets out her company PAYE reference and company registration number. There is an original payslip dated 23.6.17 from Jackson Enterprises Ltd showing a net salary of £335.24. The notice of appeal states that the results of the appellant's searches of the company are attached but these do not appear in the bundle of documents. I find that this is sparse and limited documentary evidence that the EEA sponsor is employed as she claims and so I do not determine that the appellant has established that the sponsor is employed in genuine employment as she claims.

10. I do not find that the sponsor meets the definition of a 'worker' within the meaning of Regulation 6 and so the appellant fails to meet that criteria. On that basis I dismiss the appeal."
3. There is nothing before me to suggest that the First-tier Judge was mistaken as to the evidence he had before him. On the basis of that evidence, it was unarguably open to the First-tier Judge to conclude that the sponsor and the appellant had not demonstrated that at the date of application she was in genuine employment and therefore a qualified person under the EEA Regulations.
4. For the Upper Tribunal hearing, the appellant filed a bundle of documents running to 175 pages which comprised the documents which were before the First-tier Tribunal with the addition of a number of other documents. The additional documents, even had they been before the First-tier Tribunal, are not sufficient to satisfy a Judge that at the date of the EEA Regulations application the sponsor was exercising Treaty rights in the United Kingdom as a worker, as asserted.
5. It is not suggested that the sponsor is a qualified person on any other basis. The decision made by the First-tier Tribunal on the evidence and I therefore dismiss the appellant's appeal and uphold the First-tier Tribunal decision.

Conclusions

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

I do not set aside the decision. The decision of the First-tier Tribunal stands.

Signed: *Judith A J C Gleeson*
Upper Tribunal Judge Gleeson

Date: 7 August 2018