



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: HU/04558/2017

THE IMMIGRATION ACTS

Heard at Field House
On 7th November 2018

Decision & Reasons Promulgated
On 22nd November 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE SAFFER

Between

AMINA AROUN
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: The Sponsor, Mr Malagouen appeared in person

For the Respondent: Mr T Lindsay, a Home Office Presenting Officer

DECISION AND REASONS

Background

1. The Respondent refused the Appellant's application for leave to enter as the spouse of Mr Malagouen. Her application was made on 6th January 2017. The refusal of entry clearance was dated 9th February 2017. The reason for the refusal was that Mr Malagouen had not provided sufficient evidence in the specified form that he earned the requisite income threshold of £18,600 in the six-month period prior to the application due to a lack of payslips and bank statements in that period.

2. Her appeal against this was dismissed by First-tier Tribunal Judge Twydell (“the Judge”) following a hearing on 5th March 2018. Permission to appeal was granted by Judge Page on 3 September 2018 as Mr Malagouen said he did provide the specified evidence, and if that was the case, there may have been a defect of a procedural nature.

The Judgement

3. The Judge considered the documentation produced and records at [6] that “at the end of the hearing I directed the Appellant produce, within fourteen days, his P60 document for the year 2015/2016”. The Judge then continues by recording at [7] various documents had been received from the Appellant. It is noted that the Sponsor had not produced the P60 as directed.

The hearing

4. Mr Malagouen explained to me that he had been made redundant. He identified the documents he had sent in. Mr Lindsay submitted that the document from HMRC concerned the period 2016/17 and not 2015/16, and the letter relating to the annual tax summary for 2015/16 identifies a total income of £14,694.22 which falls below the relevant threshold of £18,600. He submitted that redundancy money does not fall within Appendix FM and accordingly the Rules were not established as having been met.

Discussion

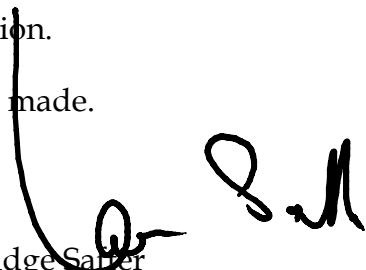
5. The specified evidence of financial requirements is set out in the Immigration Rules in Appendix FM-SE and require the production of bank statements, payslips and correspondence from employers. The full criteria are set out in the Judge’s decision at [21]. A P60 is not a specified document.
6. The Immigration Rules in Appendix FM E-ECP3.2 identify the sources that may be taken into account when establishing if the income threshold is established. It does not include redundancy payment within those criteria.
7. The Judge did not materially err at [22] when the financial documentation was assessed for the following reasons. The Judge was correct to work out the income on the basis of the documentation produced. Mr Malagouen does not have to produce the P60 from 2015/16 to identify that he exceeded the income threshold, but he did have to produce specified evidence that he met the threshold. The documents produced did not establish that he did. Contrary to that which was asserted in the application for permission to appeal, he had not produced the required documentation.

Notice of Decision

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.

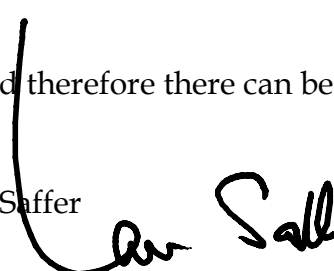
No anonymity direction is made.

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Deputy Upper Tribunal Judge Saffer
15 November 2018

FEE AWARD

I have dismissed the appeal and therefore there can be no fee award.

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Deputy Upper Tribunal Judge Saffer
15 November 2018