



**Upper Tribunal
(Immigration and Asylum Chamber)**
IA/09793/2014

Appeal Number:

THE IMMIGRATION ACTS

Heard at: Field House

**Determination
Promulgated**

On: 23rd July 2014

On: 25th July 2014

Before

DEPUTY UPPER TRIBUNAL JUDGE BRUCE

Between

**Betty Ama Atta-Saow
(no anonymity order made)**

Appellan
t

and

Secretary of State for the Home Department

Respondent

For the Appellant: -

For the Respondent: Mrs Kenny, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The Appellant is a national of Ghana born on the 13th January 1990. She has permission to appeal against the decision of the First-tier Tribunal (Judge Greasley) dated the 23rd May 2014 to dismiss her appeal against the Respondent's decision to refuse to issue her with a residence card as confirmation of her right of residence under Regulation 10(3) of the Immigration (European Economic Area) Regulations 2006.

2. The matter in issue was whether the Appellant had retained rights of residence. She had previously been given a residence card as the dependent family member of her stepmother Vicky Lammertyn, a Belgian national exercising treaty rights in the UK. The basis of the present application was that the Appellant had established herself in the UK, and although her stepmother had left the UK and returned to Belgium she asserted that she had retained rights of residence.
3. The Respondent had refused the application on the grounds that there was insufficient evidence that the EEA sponsor had ceased to exercise treaty rights here. It was said that she had left the country in November 2012 but a letter from her former employer Tower Hamlets council indicated that she was still being paid in January 2013. The Appellant had further failed to show that she was still in education when her stepmother left the UK.
4. The matter was determined on the papers before the First-tier Tribunal. At paragraph 8 of the determination it is recorded that “no actual grounds of appeal were included with the IAFT-1”, and I infer from the determination that the Judge did not believe there to be any additional documentary evidence.
5. As First-tier Tribunal Judge Astle observed in granting permission, there are fully reasoned grounds of appeal to the First-tier Tribunal appended to the IAFT-1. Indeed had there not been, the appeal would not have been listed. The grounds of appeal are attached to the IAFT-1 in the appeal papers in the file. They refer to a number of documents which were relevant to the determination of the issues, in particular correspondence from HMRC addressed to Ms Lammertyn in Belgium, payslips from her work in Belgium and a signed statement from her explaining why she had continued to be paid by Tower Hamlets after she had left the country (she had accrued holiday leave). There is also a Eurostar ticket showing that she did travel from the UK in November 2012. None of that evidence was considered by the First-tier Tribunal in the determination of this appeal. It is clearly referred to in the grounds. I am satisfied that it was an error of law not to have regard to those grounds and that evidence.
6. The Appellant has not had a fair hearing in that for whatever reason the Judge did not look at the evidence and grounds that she had submitted. In the circumstances I consider that the most appropriate remedy would be for the matter to be determined afresh in the First-tier Tribunal.

Decisions

7. The decision of the First-tier Tribunal contains an error of law and it is set aside.
8. The matter is remitted to the First-tier Tribunal.
9. I make no direction as to anonymity.

Deputy Upper Tribunal Judge Bruce
23rd July 2014