



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number IA/28972/2013

THE IMMIGRATION ACTS

Heard at Field House
On 20th October 2014

Determination Promulgated
On 27th October 2014

Before

Deputy Upper Tribunal Judge Rimington
(Immigration and Asylum Chamber)

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

(Anonymity direction not made)

Appellant

and

Muhammad Atif

Respondent

Representation:

For the Appellant: Mr Syed Ali instructed by Immigration Chambers

For the Respondent: Mr M Shilliday, Home Office Presenting Officer

DETERMINATION AND REASONS

The Appellant

1. The application for permission to appeal was made by the Secretary of State but nonetheless for the purposes of this determination I shall refer to the parties as they were described before the First Tier Tribunal.
2. On 8th July 2014 First Tier Tribunal Judge McDade allowed the appellant's appeal against the refusal, dated 12th February 2013, by the Secretary of State, to grant the appellant's application dated 22nd October

2012 for a Tier 4 (general) Student Migrant visa under the points based system (paragraph 245ZX(d) of the Immigration Rules).

3. Essentially the appellant had submitted an original Lloyd's bank letter dated 15th October 2012 confirming that the appellant had the required funds (£2,000 as stated in the Secretary of State's refusal letter) for the period 11th September 2012 to 11th October 2012. His bank statement, which he also submitted, from Lloyd's Bank showed that on 12th October 2012 (one day later) his balance had dropped to £1532.45. Judge McDade allowed the appeal on the basis of the bank letter.
4. This was challenged by the respondent citing that Paragraph 1A(h) of the Rules states that *'the end date of the 90-day and 28-day periods referred to in (b) and (c) above will be taken as the date of the closing balance on the most recent of the specified documents (where specified documents from two or more accounts are submitted, this will be the end date from the account that most favours the applicant) and must be no earlier than 31 days before the date of application'*.
5. The respondent argued that the date should be taken from the date of the bank statement as this was the most recent closing balance on the most recent specified document.
6. I pointed out at the appeal that the rule does not state 'the most recent closing balance' but the 'most recent specified document'. There is a difference. The bank letter post dates the bank statement and is the most recent *specified document* as set out in Appendix C paragraph 1B(c) which confirms that a bank letter, in the relevant form can suffice. The bank letter confirmed that the appellant's account had not dropped below £2,000 for a 28 day period ending on 11th October 2012. The bank statement was not the most recent specified document even though it showed the balance one day later at £1,532.45. Mr Shilliday conceded that a careful reading of the Rules led the appellant to success.
7. Although there was a challenge to the reasoning given by Judge McDade in his determination, and there was no explanation of the rule, his reasoning, I find, would have made no difference to the outcome.

DECISION

8. The determination contains no error of law which was material and the decision shall stand.

Signed:

Date 20th October 2014

Deputy Judge of the Upper Tribunal Rimington