



**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: IA/49698/2013

**THE IMMIGRATION ACTS**

**Heard at Bradford**

**On 31 July 2014**

**Determination  
Promulgated**

**On 10 October 2014**

**Before**

**UPPER TRIBUNAL JUDGE CLIVE LANE**

**Between**

**NENIH NURHAENI BT SETIADI**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: In person

For the Respondent: Mr M Diwnycz, a Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellant, Nenih Nurhaeni Bt Setiadi, born on 23 November 1974 and is a citizen of Indonesia. By a decision dated 8 November 2013, the appellant was refused further leave to remain as a domestic worker in a private household. The decision was also taken to removal her from the United Kingdom. The appellant appealed against that decision to the First-tier Tribunal (Judge Robson) which, in a determination promulgated on 20 May 2014, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. The relevant Immigration Rules are 159D; 159E, 159EA:

159D. The requirements for an extension of stay as a domestic worker in a private household are that the applicant:

(i) entered the United Kingdom with a valid entry clearance as a domestic worker in a private household; and

(ii) was granted less than 6 months leave to enter in this capacity; and

(iii) has continued to be employed for the duration of leave granted as a domestic worker in the private household of the employer with whom the applicant entered or joined in the UK; and

(iv) continues to be required for employment for the period of the extension sought as a domestic worker in a private household that the employer lives in, where there is evidence of this in the form of written terms and conditions of employment in the UK as set out in Appendix 7 and evidence that the employer is living in the UK; and

(v) does not intend to take employment except as a domestic worker in the private household of the employer; and

(vi) meets the requirements of paragraph 159A (iv) and (vii); and

(vii) must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.

Extension of stay as a domestic worker in a private household

159E. An extension of stay as a domestic worker in a private household may be granted for a period of six months less the period already spent in the UK in this capacity.

Requirements for extension of stay as a domestic worker in a private household for applicants who entered the United Kingdom under the Rules in place before 6 April 2012

159EA. The requirements for an extension of stay as a domestic worker in a private household for applicants who entered the United Kingdom under Rules in place before 6 April 2012 are that the applicant:

(i) last entered the UK with a valid entry clearance as a domestic worker in a private household under Rules in place before 6 April 2012; and

(ii) has continued to be employed for the duration of leave granted as a domestic worker in a private household; and

(iii) continues to be required for employment for the period of the extension sought as a full time domestic worker in a private household under the same roof as the employer or in the same household that the employer has lived in and where evidence of this in the form of written terms and conditions of employment in the UK as set out in Appendix 7 and evidence that the employer resides in the UK; and

(iv) does not intend to take employment except as a full time domestic worker in the private household referred to in sub-paragraph 159EA (iii); and

(v) meets the requirements of paragraph 159A (i) and (vii); and  
(vi) must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.

remaining before the expiry of the current leave (so if the application is decided on March 31st and the current leave does not expire until April 30th, an additional period of one month's leave may be granted).

I have read the detailed written submission made by the appellant. In that document [6] she sets out, in admirably concise terms, the single issue which arises in this appeal:

I agree that under the under new Rules I will not be entitled to apply for a new domestic worker visa.

Under the old Rules I would be entitled to apply for a new domestic worker visa. Another point is that it is stated in the Rules that those who continue to hold domestic worker visas from since before April 2012 are entitled to have all their other further domestic worker applications considered under the old Rules. That is it.

3. The appellant told me that she and the family for which she works had all entered the United Kingdom in September 2013; the appellant's passport bears an entry stamp of 22 September 2013. The appellant had been granted leave to enter as an overseas domestic worker on 3 April 2013. The visa was valid until 3 October 2013. The Secretary of State was not satisfied the appellant was granted less than six months' leave to enter in that capacity. The appellant therefore did not qualify for a visa by virtue of the provisions of paragraph 159D(ii). The Secretary of State was also not satisfied the appellant intended to leave the United Kingdom at the end of the six months of her visa or at the same time as her employer whichever was the earliest. Accordingly, the appellant did not qualify for leave by virtue of paragraph 159D(vi) and 159A(iv). The Rules at 159EA(i) make it clear that that paragraph should only apply to domestic workers who *last* entered the United Kingdom under Rules in place before 6 April 2012. This appellant last entered the United Kingdom under the Rules which applied in September 2013. Those are the very Rules which she acknowledges excluded her from extending her visa beyond its expiry on 3 October 2013. The interpretation which the appellant places on the Rules is the opposite of the plain and ordinary meaning of the words used; she would be entitled to remain under paragraph 159EA but that Rule covered applicants who had *first* arrived under the pre-6 April 2012 Rules. However, that is not what the Rule states. In consequence, I have concluded that Judge Robson was correct to dismiss the appeal under the Immigration Rules.

## **DECISION**

This appeal is dismissed.

Date 20 September 2014

Upper Tribunal Judge Clive Lane