



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: OA/09246/2013

THE IMMIGRATION ACTS

Heard at Field House
On 27 May 2014

Determination Promulgated
On 08 July 2014

Before

UPPER TRIBUNAL JUDGE ALLEN

Between

IRAM REHMAN JANJUA

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S Saleem of RKS Solicitors

For the Respondent: Mr A McVeet, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant appealed to a Judge of the First-tier Tribunal against the respondent's decision of 12 March 2013 refusing to grant her entry clearance as the spouse of her husband, the sponsor. The refusal was under ECP.1.1.(d) and the relevant criteria for that is set out in the respondent's decision refusing entry clearance. This requires

that in respect of salaried employment in the United Kingdom, all of the following evidence must be provided:-

- The P60 for the relevant period or periods.
 - Wage slips covering either a period of six months prior to the date of application if the applicant has been employed by their current employer for at least six months, or a period of twelve months prior to the date of application if the applicant has been employed by their current employer for less than six months.
 - A letter from the employer confirming the person's employment and gross annual salary.
 - The length of their employment.
 - The period over which they have been or were paid the level of salary relied upon in the application.
 - The type of employment – permanent, fixed contract or agency.
 - Assigned contract of employment.
 - Monthly personal bank statements corresponding to the same period as the wage slips showing that the salary has been paid into an account in the name of the person or in the name of the person and their partner jointly.
2. The sponsor sought to satisfy the financial requirements of the Rule which is the essential issue the judge had to deal with on the basis of three sources of income. First, employment with Asda; second, rental income from a property owned, and thirdly, employment from a second job he had as a window cleaner. The judge accepted the combination of income from the first two sources which came to slightly under £15,000, so bearing in mind the £18,600 threshold he had to show the further employment as a window cleaner in order to satisfy this requirement of the Rules. The decision maker said in relation to this that:-
- “I am satisfied your sponsor is in employment with Asda, but I am not satisfied that he is employed with Gleam Window Cleaning Services Ltd. The wage slips you have submitted are those that are easily produced, therefore have little evidential value, the amount earned is not reflected in your sponsor's bank statement and I am satisfied that the evidence for the second employment was produced to strengthen your application”.
3. When the judge came to consider this employment she noted that the sponsor was claiming he had additional earnings working in a second job as a window cleaner and he had provided wage slips from this employment, but she said the only other corroboration is a letter from his employer and his oral evidence. This was not sufficient to satisfy the requirements of Appendix FM in terms of the specified

evidence. There was no money credited in the bank statements which matched his stated cash payments and he did not provide evidence of savings, although his statements showed he was living within his means, and the argument really comes down to whether the judge was entitled to reach this conclusion. Mr Saleem has mentioned the fact that a P60 was handed in at the hearing and there is mention of that in the grounds of appeal. The judge has not referred to it, I have not been able to find it on the file and it seems there were no copies kept, so its whereabouts remains something of a mystery, but I think that is not a matter that need be a point of concern because it was not a point taken against the appellant for whatever reason when the refusal of entry clearance was made. It really was made only on this relatively narrow point of the amount claimed to be earned from the window cleaning, but not being reflected in the bank statements. Copies of those bank statements were provided and Mr Saleem makes the point that the pay method can be seen to be in cash and it will be harsh to hold that against the appellant if he could not provide in his bank account clear evidence of the amounts of £89.60 per week that were said to be the payment for this employment being reflected in the bank account.

4. The difficulty with that submission is that as the requirements of the Rules make clear, all following evidence must be provided and there is the specific requirement of monthly personal bank statements showing that the salary has been paid into an account in the name of the person or the person and their partner jointly, and the bank statements do not do that. I recognise that that may well be a difficulty for somebody in the sponsor's position who is paid in cash and may not at the time be aware of the requirements of the Rules to have effectively to show that the monies paid into the bank account and then to take money out. One can understand why somebody might be at least as likely simply to spend the cash as it came in rather than realising that it had to be paid into an account in order to prove that payment and then take it out, but that is the requirement of the Rules. Unfortunately, though it is for the appellant and the sponsor, it is not fatal because a further application could be made and in future if this is a genuine occupation, then the earnings can be paid into a bank account in order to prove that the payments have been made and the requirements for the Rules are met, but because that was a specific ground of refusal and because it was a specific matter addressed by the judge, I consider that it was perfectly open to her and proper for her, and indeed required for her to take that into account in dismissing the appeal as she did.
5. Mr Saleem has not raised any points about proportionality and Article 8 in submissions today. It was, I think, a matter that was mentioned in the grounds, but again I do not think the judge arguably erred in that respect. She seems to have given consideration to the relevant issues and came to conclusions that were open to her, so in all respects I maintain her decision dismissing the appeal.

Signed

Date

Upper Tribunal Judge Allen