



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

Appeal Number: IA/06923/2014

THE IMMIGRATION ACTS

**Heard at Field House, London
On 6th May 2015**

**Decision & Reasons Promulgated
On 28th May 2015**

Before

UPPER TRIBUNAL JUDGE ROBERTS

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MR MARIUSZ SZCZYGLO
(ANONYMITY DIRECTION NOT MADE)**

Respondent

Representation:

For the Appellant: Mr Bramble, Home Office Presenting Officer

For the Respondent: No Appearance

DECISION AND REASONS

1. This is an appeal to the Upper Tribunal with permission, by the Secretary of State against a decision of the First-tier Tribunal (Judge Howard) in which it allowed the appeal of Mariusz Szczyglo against the Secretary of State's decision of 25th September 2013 seeking to remove him pursuant to Regulation 19(3) of the EEA Regulations 2006.

2. I shall hereafter refer to the Respondent as “the Appellant” and the Secretary of State as “the Respondent” which reflects their respective positions when appearing before the First-tier Tribunal.
3. The Appellant is a citizen of Poland (born 4th April 1981), who entered the United Kingdom in May 2011 to seek employment thereby exercising his Treaty rights. From May 2011 to July 2013 the Appellant was employed by Prezzo PLC; documentary evidence to show this has been submitted and is unchallenged by the Respondent.
4. The Appellant subsequently became unemployed, registered with the Job Centre and received Job Seekers Allowance.
5. By 25th September 2013 the Respondent made a decision to remove the Appellant pursuant to Regulation 19(3) of the EEA Regulations 2006. The Appellant was accordingly served with the requisite notice which informed him that he had a right of appeal against that notice. The Appellant did not appeal.
6. On 8th November 2013 the Appellant’s detention was authorised. He was detained from 27th November 2013 until 24th February 2014 when the removal directions were cancelled. The Appellant was granted temporary admission and a notice of appeal was lodged by him on 3rd January 2014.
7. When the Appellant’s appeal came before the First-tier Tribunal, the Judge set out the background to the appeal. He took oral evidence from the Appellant and noted amongst other things that the Appellant had been served with a notification of temporary admission. That document specifically prevented him from working or engaging in any business unless explicitly granted permission so to do. The Judge also noted that the issue before him was that the Appellant is no longer a qualified person under Regulation 6(4) of the 2006 Regulations. The Respondent sought to remove the Appellant on the basis that the Appellant could not show that he was a jobseeker i.e. a person who had entered the United Kingdom in order to seek employment and is someone who can provide evidence that he is seeking employment and has a genuine chance of being engaged. That was the issue before the First-tier Tribunal.
8. Having heard from the Appellant and considered the documentary evidence before him, the FtT Judge allowed the Appellant’s appeal.
9. The Respondent and was granted permission to appeal. There is only one ground of appeal and that is set out in full below.

“Failure to give reasons or any adequate reasons for findings on a material matter.

The First Tier Tribunal Judge has failed to give reasons or any adequate reasons for finding that the Appellant entered the UK to seek employment and had provided sufficient evidence to show that he had a genuine chance of being employed. The findings at paragraph 16 is inadequate and the Judge has failed to properly determine on what basis there was sufficient

evidence before the Tribunal to show that the Appellant had demonstrated he was capable of being employed.”

The UT Hearing

10. Before me Mr Bramble appeared on behalf of the Respondent. The Appellant did not attend. I heard submissions from Mr Bramble. I have decided to dismiss the Secretary of State’s appeal and my reasons for so doing are set out here below.
11. I see no substance in the grounds seeking permission. At paragraph 16 of his determination, the Judge sets out his findings which in my judgment are clear enough. The Appellant’s claim is that he entered the UK to seek employment. Indeed he gained employment and remained with the same employer for over two years. This is documented. Following that period of employment, he obtained Job Seekers Allowance. He was in receipt of that benefit to which he was entitled, until he was arrested by UKBA and placed on temporary admission.
12. As the Judge clearly found, the terms of his temporary admission prevented the Appellant from working. The Judge accepted that this is the main reason why the Appellant is presently not working. It has always been the Appellant’s case that he is available for work.
13. The Judge concluded therefore on the evidence before him that the Appellant met the requirements of Regulation 6(4) and his conclusions for reaching that decision is fully reasoned.
14. It follows therefore that the Judge has not fallen into legal error by failing to give reasons or adequate reasons for finding that the Appellant entered the UK to seek employment and for providing sufficient evidence to show he had a genuine chance of being employed. The Respondent’s appeal therefore fails and the decision of the FtT stands.

Decision

15. The appeal of the Secretary of State is dismissed. The decision of the First-tier Tribunal stands.

No anonymity direction is made

Signature

Dated

Judge of the Upper Tribunal