



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

Appeal Number: IA/27773/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 29 January 2015**

**Determination
Promulgated
On 26 February 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE GIBB

Between

**MACKAY KIMANI KANGERE
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: None

For the Respondent: Mr C Avery, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, a citizen of Kenya, appealed against a decision refusing him further leave as a Tier 4 Student. The refusal was dated 12 June 2014. The appellant attended a hearing in Birmingham on 20 October 2014, at which he was not legally represented. His appeal was dismissed by First-tier Tribunal Judge Pacey, in a decision promulgated on 24 October 2014.
2. Permission to appeal was granted by First-tier Tribunal Judge McWilliam, on 9 December 2014. The appeal was concerned with the issue of

whether the appellant had had the required level of funds for a 28 day period leading up to the application. Permission to appeal was granted on the basis that the appellant had had the required level for a 28 day period that fell within 31 days of the date of application, even if he had not had the required level for the 28 day period leading up to the closing date of the bank statement.

3. There was no appearance on the day of the hearing by 11.40am, and no message was received. The appellant had not provided a telephone number, and he was not represented. From the file I saw that the notice of hearing had been sent by first class post to the appellant at the only known address on 29 December 2014. Prior to that, on 18 December 2014, directions had been sent. I was therefore satisfied that there had been good service. As a result, there being no explanation for absence, I decided to proceed with the hearing in the appellant's absence.
4. Mr Avery, for the respondent, made brief submissions.
5. The point at issue was a narrow one. The judge had dismissed the appeal on the basis that the bank account had fallen below the required level for a period in April 2014. The point on which permission to appeal was granted is one that is clarified in Appendix C to the Immigration Rules. At Appendix C 1A(h) the end dates of the 90 day or 28 day periods are defined, and they are taken as the date of the closing balance on the most recent bank statement. This is exactly as was understood by the judge at paragraph 7 of her decision.
6. The judge did not err in law in her approach to the Immigration Rules. There is no basis for her decision to be disturbed.
7. I note from the appellant's grounds that his studies were due to finish in early January 2015. It may be that this means that the matter is now no longer relevant in any event.
8. There is no need for anonymity, and no question of any fee award.

Notice of Decision

9. The appeal to the Upper Tribunal is dismissed. No error of law having been shown the judge's decision dismissing the appeal remains undisturbed.

Signed

Date **25 February 2015**

Deputy Upper Tribunal Judge Gibb