



**Upper Tribunal  
(Immigration and Asylum Chamber)  
EA/09348/2016**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Manchester**

**On 6 June 2017**

**Decision & Reasons  
Promulgated  
On 20 June 2017**

**Before**

**UPPER TRIBUNAL JUDGE CLIVE LANE**

**Between**

**DEVORA NECHAMA LANG  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: In person

For the Respondent: Mr McVeety, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant, Devora Nechama Lang was born on 31 July 1990 and is a female citizen of Australia. The appellant had applied for a permanent residence card as confirmation of her right to reside in the United Kingdom. Her application had been refused by a decision of the respondent dated 14 July 2016. The appellant appealed to the First-tier Tribunal (Judge S T Fox) which, in a decision promulgated on 28 November

2016, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. Judge Fox had heard this appeal on the papers. The appellant asserts that the judge failed to have regard to documentary evidence which had been submitted both to the Tribunal and to the respondent prior to the date upon which the appeal was determined. The appellant has produced proof of postage and I am satisfied, on a standard of proof of the balance of probabilities, that the documents had been sent and had been received by both the Tribunal and the respondent prior to 24 November 2016 (the date upon which Judge Fox, sitting at North Shields, determined the appeal). For whatever reason, the judge has not had regard to the documents; it is likely that they were not put before him by the administration of the Tribunal. In the circumstances, I set aside Judge Fox's decision and remade the decision.
3. Mr McVeety, for the respondent, and I considered the documents which had been produced by the appellant, who attended court with her husband, the sponsor. Those documents, in particular the forms P60 and documents relating to jobseeker's allowance, clearly indicate that for the five year period prior to the date of the application for a residence card, the sponsor had been either in employment or a jobseeker. Mr McVeety agreed with that interpretation of the documentary evidence. In the circumstances, I allow the appeal against the respondent's decision to refuse the appellant a residence card.

### **Notice of Decision**

4. The decision of the First-tier Tribunal promulgated on 28 November 2016 is set aside. I have remade the decision. The appellant's appeal against the decision of the respondent dated 14 July 2016 is allowed.
5. No anonymity direction is made.

Signed

Date 19 June 2017

Upper Tribunal Judge Clive Lane