



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

Appeal Number: EA/00100/2017

THE IMMIGRATION ACTS

Heard at Field House

On 22nd March 2018

**Decision & Reasons
Promulgated
On 26th April 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE RENTON

Between

**ERICA ARIANA SALGUEIRO BAYAN
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S Khan, Counsel, instructed by Adam Bernard Solicitors
For the Respondent: Mr A Kotas, Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. The Appellant is a female citizen of Portugal born on 20th November 1990. She is said to have first entered the United Kingdom in October 1997. On 10th August 2016 she applied for a certificate of permanent residence on the basis of five years' continuous residence in the UK under the provisions of the Immigration (European Economic Area) Regulations 2006. That application was refused for the reasons given in a Notice of Decision dated 12th December 2016. The Appellant appealed and her

appeal was decided on the papers and without a hearing at Manchester on 22nd February 2017 by First-tier Tribunal Judge Robson (the Judge). He decided to dismiss the appeal for the reasons given in his Decision dated 12th March 2017. The Appellant sought leave to appeal that decision, and eventually, following a hearing in the Upper Tribunal on 1st December 2017, I decided that the decision of the Judge contained an error on a point of law and I set it aside.

2. This hearing is for the purpose of remaking the decision in the appeal.

The Hearing

3. At the hearing I heard brief evidence from the Appellant. She confirmed that the contents of her Statement dated 15th March 2018 were true. She was not cross-examined.
4. I also heard representations from both parties at the hearing. Mr Kotas addressed me first when to begin with he conceded that the evidence of the Appellant and from DWP showed that the Appellant had been exercising Treaty Rights in the UK for a period of four years, nine months up to the date of the hearing. However, she had been a student from March to June 2013. In order to satisfy the provisions of Regulation 4(d)(ii) of the Immigration (European Economic Area) Regulations 2006 she needed to have comprehensive sickness insurance for that period. There was no evidence that she had had such insurance.
5. In response Mr Khan explained that the Appellant had been resident in the UK since 1997 when she had been 7 years of age. Since becoming an adult she had worked for most of the subsequent time. She had been a student between 2009 and 2013, and had returned to her studies for the period from March to June 2013. After that she had resumed regular employment. However, Mr Khan was unable to say that there was evidence that the Appellant had had comprehensive sickness insurance for the relevant period between March and June 2013.

Decision and Reasons

6. The relevant facts in this matter are not in dispute. The Appellant applied for a permanent residence card under the provisions of Regulation 18(1) of the Regulations. For her appeal to succeed, she must show on the balance of probabilities that she satisfies the provisions of Regulation 15(1) for a continuous period of five years prior to the date of the hearing in accordance with those Regulations. She can do so for the great majority of that period as a worker, but for the period from March to June 2013 she was not working but a student. During this period she could still qualify as a jobseeker if, according to Regulation 4(d)(ii) of the Regulations, she had comprehensive sickness insurance. This the Appellant has failed to show. The appeal must therefore be dismissed.

Notice of Decision

7. I remake the decision in the appeal by dismissing the appeal.

Anonymity

8. I was not asked to make an order for anonymity and indeed find no reason to do so. I make no order for anonymity.

Signed

Date 24th April 2018

Deputy Upper Tribunal Judge Renton

TO THE RESPONDENT
FEE AWARD

As the appeal has been dismissed there can be no fee award.

Signed

Date 24th April 2018

Deputy Upper Tribunal Judge Renton