



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: EA/09589/2016

THE IMMIGRATION ACTS

Heard at Field House
On 22 June 2018

Decision & Reasons Promulgated
On 4 July 2018

Before

UPPER TRIBUNAL JUDGE ALLEN

Between

BLESSING EMMANUEL AGBALE
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Afzal of International Immigration Advisory Services
(Levenshulme)

For the Respondent: Mr D Clarke, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a national of Nigeria. He appealed to the First-tier Tribunal against the decision of the Secretary of State of 22 July 2016 refusing to grant him permanent residence in the United Kingdom.
2. Though the judge accepted a number of positive factors on the appellant's behalf such as that it did not show that his wife was complicit in deception, and the respondent's allegation that the sponsor was not residing in Ireland for any sustained period of time and did not transfer the centre of her life to that country was not made

out, she refused the claim on the basis set out at paragraphs 20 and 21 of her decision.

3. At paragraph 20 she listed the documentation provided by the appellant to show that he had resided with his sponsor in the United Kingdom for a continuous five year period. At paragraph 21 she concluded that there was a gap in the evidence for 2010, 2012, 2013 and 2014 without an explanation and that as a consequence the appeal fell to be refused.
4. Permission to appeal was sought on the basis that there was documentary evidence referring to the relevant years, and some documentation was attached to the grounds. Permission to appeal was granted by a Judge of the First-tier Tribunal.
5. In his submissions Mr Afzal argued that as regards 2010 there was the hearing before Judge Murray and the TV licence covered 2011 to 2012. There was further evidence put in with the grounds concerning the missing years otherwise.
6. In his submissions Mr Clarke argued that there was in fact no evidence before the judge for 2013 and 2014 and at its highest therefore the claim could not succeed.
7. Mr Afzal had no points to make by way of reply.
8. I am satisfied that in this case there is no error of law by the judge. Mr Afzal accepted that the documents before the judge were those listed at A to L in the decision letter. Material documents such as the P45, the photocopy of the British Gas bill, the Bank of Ireland statement and the tax credits letter all refer to the sponsor. The grounds refer to 2010 and the decision of Judge Murray in that year which may be said to show the presence in the United Kingdom in that year. Also the television licence dated 19 September 2011 addressed to the appellant at an address in Oxford is of relevance to that year. But as regards 2012, 2013 and 2014, the evidence is simply lacking. The fact that the television licence was valid until July 2012 does not in my view show the presence in the country at that time, it is simply the fact that the licence was obtained the previous year. In any event, there is no evidence for 2013 and 2014. Evidence that has been subsequently provided with the grounds of appeal cannot go to show an error of law in the judge's decision. She was clearly right to conclude that there was no evidence to substantiate the appellant's claim to have been in the United Kingdom for a continuous five year period for 2013 and 2014 which is clearly crucial. Though the five year continuous residence period can be for any period from 2009, the lack of documentation for those two years is fatal. Accordingly, I conclude that no error of law in her decision has been identified and the decision dismissing the appeal stands.
9. No anonymity direction is made.



Signed

Date: 3rd July 2018

Upper Tribunal Judge Allen

TO THE RESPONDENT
FEE AWARD

The appeal is dismissed and therefore there can be no fee award.

A handwritten signature in black ink, appearing to be 'Allen', written in a cursive style.

Signed

Date: 3rd July 2018

Upper Tribunal Judge Allen