



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: IA/07970/2013

THE IMMIGRATION ACTS

Heard at Field House  
On 10 October 2013

Determination Promulgated  
On 21 November 2013  
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Before

UPPER TRIBUNAL JUDGE ALLEN

Between

LEONARDO D'EMILIO

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: In person  
For the Respondent: Ms K Pal, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant appealed to a Judge of the First-tier Tribunal against the respondent's decision of 5 April 2013 refusing his application for a residence card under the Immigration (European Economic Area) Regulations 2006. The judge heard the

appeal on the papers and dismissed it on the basis that there were no relevant documents available to him and accordingly the burden of proof had not been satisfied by the appellant.

2. In his grounds of appeal the appellant referred to a detailed document that had been provided by special delivery to the Tribunal on 30 July 2013, two days before the day on which the judge considered the appeal. Proof of sending the documentation was provided with the grounds. Permission to appeal was granted on the basis that there was an arguable procedural error.
3. At the hearing before me it was in effect common ground that the documentation should have been put before the judge who, through no fault of his own, was as a consequence unable to address it. Accordingly the appropriate disposal of the appeal is for it to be heard again de novo in the First-tier Tribunal at Hatton Cross by a judge other than Judge Camp.

Signed

Date

Upper Tribunal Judge Allen