



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

Appeal Number: IA/02153/2014

THE IMMIGRATION ACTS

Heard at Field House

**On 3 September 2014
Prepared 3 September 2014**

Determination

**Promulgated
On 18 September 2014**

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

MR DENSON OSATO EFIONAYI

Respondent

Representation:

For the Appellant: Mr G Jacks, Senior Presenting Officer
For the Respondent: In person

DETERMINATION AND REASONS

1. The Secretary of State appealed against the decision of First-tier Tribunal Judge Rothwell, dated 17 June 2014, whereby the judge allowed an appeal against the Secretary of State's decision, dated 12 December 2013, to

refuse to issue a permanent residence card with reference to the Immigration (European Economic Area) Regulations 2006.

2. Permission to appeal was given by First-tier Tribunal Judge Foudy on 5 July 2014.
3. At the hearing on 3 September 2014 Mr Jacks, as a result of consideration of papers not previously before him and information provided by the Respondent, was able to establish that the Appellant's Sponsor had permanent residence at material times. Therefore the application that was made did not fall to be refused on the basis it was.
4. It is clear that the decision of the First-tier Tribunal Judge is in a number of respects lacking clarity and is in part contradictory. In those circumstances it was unsurprising that the person settling the grounds of application on behalf of the Secretary of State did so in the manner and way explained. Ultimately since the Respondent was entitled to the residence card on the basis of his Sponsor's status at the material times, there is no point in the appeal being pursued even though it is clear the judge reached the right decision for manifestly the wrong reasons.
5. The appeal is therefore withdrawn with leave of the Upper Tribunal.
6. The original Tribunal's decision dated 17 June 2014 stands.

Signed

Date 9 September 2014

Deputy Upper Tribunal Judge Davey