



IAC-FH-AR-V1

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

Appeal Number: IA/26549/2013

**THE IMMIGRATION ACTS**

**Decided at Field House  
On 4 November 2014**

**Determination Promulgated  
On 28 November 2014**

**Before**

**UPPER TRIBUNAL JUDGE LATTER**

**Between**

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

Appellant

**and**

**SARWAR ANWAR NASR  
(Anonymity direction not made)**

Respondent

**DETERMINATION AND REASONS**

1. This is an appeal by the Secretary of State against a decision of the First-tier Tribunal issued on 29 November 2013 dismissing an appeal by the applicant under the EEA Regulations 2006 but allowing it under article 8. I will refer to the parties as they were before the First-tier Tribunal, the applicant as the appellant and the Secretary of State as the respondent.
2. The respondent applied for permission to appeal against the decision under article 8 on the basis that the judge failed to have proper regard to the appellant's failure to meet the requirements of the 2006 Regulations when considering the appeal on article 8 grounds. Permission to appeal was granted by the First-tier Tribunal in a decision dated 20 December 2013.

3. At a hearing on 12 February 2014 the Upper Tribunal found that the First-tier Tribunal erred in law in its assessment of article 8 and set aside the decision on the basis that the decision was be remade in relation to article 8 only.
4. The appeal was relisted for rehearing 23 June 2014 by which time there had been a change of legal representatives and counsel appearing for the appellant indicated that he was seeking to challenge the findings made by the First-tier Tribunal that the appeal could not succeed under the Regulations. It was agreed by consent that the hearing should be adjourned to enable an application to be made out of time for permission to appeal.
5. An application was duly made but permission to appeal was refused by the First-tier Tribunal in a decision on 18 July 2014. At a further hearing on 22 September 2014 it transpired that neither party had received that decision but in any event a further application had been submitted to the respondent. Both parties agreed that the appeal should be adjourned to allow that application to be considered on the basis that it was anticipated that if the application was granted, the appellant would withdraw the application.
6. By a letter dated 24 October 2014 the appellant has confirmed that the respondent has granted him permanent residence and that in these circumstances he no longer wishes to pursue his appeal.
7. In the light of this indication it is clear that the appeal can now be decided without a hearing. However, as the appeal was by the respondent and the decision has been set aside, the Tribunal must re-make the decision. The appellant has indicated that he no longer wishes to pursue his appeal and in these circumstances the appropriate course is to record that his appeal against the original decision has been withdrawn as no issue now arises under article 8 in the light of the grant of permanent residence.

### Decision

8. For the reasons set out in the determination of Deputy Upper Tribunal Judge Hall the First-tier Tribunal erred in law and the decision was set aside. In the light of the grant of permanent residence the appellant has withdrawn his appeal against the original decision.

Signed

Date 26 November 2014

Upper Tribunal Judge Latta