



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: IA/35359/2013

THE IMMIGRATION ACTS

Heard at Field House
On 14th February 2014

Determination Promulgated
On 6th March 2014

Before

UPPER TRIBUNAL JUDGE RENTON

Between

ERTIL ISLAMAJ
(NO ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr R Oliver of Oliver and Hasani Solicitors
For the Respondent: Ms P Hastings, Home Office Presenting Officer

DETERMINATION AND REASONS

Introduction

1. The Appellant is a male citizen of Albania born on 10th May 1985. He applied for leave to remain as a Tier 4 (General) Student Migrant on 9th July 2013. That application was refused for the reasons given in a Notice of Decision dated

15th August 2013. The Appellant appealed, and his appeal was heard by First-tier Tribunal Judge Saffer (the Judge) sitting at Bradford on 19th December 2013. He decided to dismiss the appeal for the reasons given in his Determination of that date. The Appellant sought leave to appeal that decision, and on 14th January 2014 such permission was granted.

Error of Law

2. I must first decide if the decision of the Judge contained an error on a point of law so that it should be set aside.
3. The application for leave to remain was refused because the Appellant failed to show that he had the requisite funds to satisfy the provisions of paragraph 1A of Appendix C of HC 395. This decision was taken on the basis of statements produced of the Appellant's bank account with Lloyds TSB.
4. The Judge dismissed the appeal because having considered the statements from Lloyds Bank TSB he found that the Appellant's funds fell below the required level of £1,600 for a four day period during the 28 day period prior to the application having been submitted.
5. Leave to appeal was granted on the basis that the Judge had not considered the funds held by the Appellant in a separate account with Barclays Bank. There is no evidence in the file that any statements relating to that bank account were submitted with the application for leave to remain. At the hearing, Mr Oliver conceded that that being the case, the Judge did not err in law in making his decision.
6. Section 85A(4) of the Nationality, Immigration and Asylum Act 2002 provides that in a Points Based System case, the Tribunal may only consider evidence adduced by the Appellant if it was submitted in support of, and at the time of making, the application to which the immigration decision related. It is common ground that that being the case the Judge could not have taken it into account the funds held by the Appellant with Barclays Bank in deciding the appeal. I therefore find that there is no error of law in the Judge's decision which I do not set aside.

Decision

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside the decision.

Anonymity

The First-tier Tribunal did not make an order pursuant to Rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005 and I find no reason to do so.

Signed

Date

Upper Tribunal Judge Renton