



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

Appeal Number: IA/51411/2013

THE IMMIGRATION ACTS

Heard at Field House

On 26th September 2014

Determination

Promulgated

On 9th October 2014

Before

DEPUTY UPPER TRIBUNAL JUDGE ZUCKER

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

SERGEJS HOHLOVS

Respondent

Representation:

For the Appellant: Mr N Bramble, Senior Home Office Presenting Officer

For the Respondent: Mr F Habtemariam

DETERMINATION AND REASONS

1. Mr Hohlovs is described as a stateless citizen of Latvia whose date of birth is recorded as 13th October 1957. On 5th August 2013 he made application for a Residence Card as confirmation of a right to reside in the United Kingdom. He relied on Regulation 7(1)(c) of the Immigration (European Economic Area) Regulations 2006.
2. On 21st November 2013 the decision was made to refuse the application and Mr Hohlovs appealed. His appeal was heard on 8th July 2014 by Judge of the First-tier Tribunal Broe sitting at Birmingham. Having considered the totality of the evidence Judge Broe came to the view that Mr Hohlovs

had discharged the burden that was upon him and allowed the appeal. Not content with that decision the Secretary of State by Notice dated 6th August 2014 made application for permission to appeal to the Upper Tribunal. There were two grounds. The first ground contended that there was a conflict in the evidence which the judge had failed to resolve, namely who paid for food. The second ground submits that there is a failure to provide adequate reasons.

3. On 18th August 2014 Judge of the First-tier Tribunal Blandy granted permission.
4. Mr Bramble sought to persuade me that there was simply insufficient reasoning on the part of the judge to entitle him to come to the decision at which he arrived. It is important to note that at paragraph 21, the judge recorded that he found Mr Hohlovs and the witnesses to be credible. The judge accepted their various immigration histories and he was satisfied that the family lived together in Latvia before coming to the United Kingdom. The judge was also satisfied that Mr Hohlovs's son paid sufficient of the needs of Mr Hohlovs for it to be said that there was a dependency.
5. It is now trite law that dependency has to be in respect of essential needs. There is guidance in a number of cases, including Reyes v Sweden [2014] EUECJ C-423/12. In the instant appeal the Secretary of State joins issue with the findings of fact but I come to the view, reading the determination as a whole that whilst the judge might have said more there is still sufficient so that it is demonstrated that the findings are perverse or irrational but rather were open to the judge to find. In ground one it is submitted that the Appellant has sufficient to provide for himself but the guidance in Reyes (supra) makes clear that that is not the approach to be taken. The question is whether there is dependency, it matters not if it is of choice; the Judge found that there was. The grounds suggest there was error on the part of the Judge because any dependency would have been past dependency. I do not read the determination in that way. The judge found it to be continuing and therefore present dependency, as to which see: Reyes (EEA Regs: dependency) [2013] UKUT 00314 (IAC)
6. On the issue of who paid for the food, the judge found that there was no clear line about who paid for food. The Secretary of State points to a contradiction in the evidence about who was paying for food. I detect no contradiction. That the Appellant spent some of his money on food did not mean that others did not also - "there was no clear line". As to how the Judge came to his conclusions that the evidence was credible it is clear that he listened to all the witnesses, assessed their testimony and made a judgment.

DECISION

7. I find no material error of law in this determination. The appeal to the Upper Tribunal is dismissed.

Signed

Date

Deputy Upper Tribunal Judge Zucker