



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: IA/52788/2013
IA/52790/2013
IA/52789/2013

THE IMMIGRATION ACTS

Heard at Field House
On 27th August 2014

Determination Promulgated
On 28th August 2014

Before

DEPUTY UPPER TRIBUNAL JUDGE RIMINGTON

Between

Waqar Ahmed
Amrat Noreen
Moiz Ahmed
(Anonymity Direction Not Made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Makol, instructed by Maalik & Co Solicitors
For the Respondent: Mr Kandola, Home Office Presenting Officer.

DETERMINATION AND REASONS

1. The appellants are citizens of Pakistan and born on 18th December 1987, 28th December 1987 and 17th December 2010 respectively. They made an application on 23rd August for leave to remain in the United Kingdom as a Tier 4 (General) Student Migrant and dependants under rule 245ZX and 319 of the Immigration Rules but the

application was refused on 2nd December 2013. The respondent stated that under Appendix C of the Immigration Rules the appellant was required to show he held £4,900 for a 28 day period ending on a date no earlier than 31 days prior to the application under paragraph 245ZX(d) of the Immigration Rules. The respondent stated that no evidence of funds had been provided.

2. First-tier Tribunal Judge Miles dismissed the appellant's appeal on 18th June 2014 because the appellant had failed to show the requisite funds for the requisite period.
3. An application for permission to appeal was made on the basis that the Judge had misdirected himself because the bank statements produced showed that the appellant held the requisite funds for the relevant period. The judge had accepted that the appellant submitted a bank statement which started on 19th February 2013 and ended on 29th July 2013 and had been stamped on 19th August 2013. The judge also accepted the letter from the bank confirming the balance as of 19th August 2013. The judge erred in the way he dealt with the evidence and the consideration of the bank statement was completely incorrect and thus an error of law.
4. Although the last date of the statement was 29th July 2013 the fact the statement was stamped 19th August 2013 by the bank itself showed the balance of 29th July 2013 had not changed 'all the way until 19th August 2013'. This, the representative claimed, was corroborated by the bank letter of 19th August itself. This was, the appellant's representative claimed, how banks worked and the judge had failed to realise this and it was a Robinson obvious point. If there were any change between the 29th July 2013 and 19th August this would have been reflected in the statement, as the stamp shows the latest date of the statement.
5. Permission to appeal was granted by Judge Saffer of the First Tier Tribunal.
6. At the hearing Mr Makol reiterated his grounds of application and submitted that the judge should have inferred that the funds had not altered by the stamp on the statement. Mr Kandola submitted that the judge dealt the point of inference at paragraph 15 of the determination and rejected it.
7. Mr Kandola confirmed that he had no original documents on file. No original documents for the specific period were produced.

Conclusions

8. The Immigration Rules specify that the appellant must demonstrate that funds are available for the 28 day period prior to the date of the application (Appendix C). The end date of the closing balance must be dated *no earlier than 31 days before* the date of the application Appendix C 1A (h). The appellant relied on his Lloyds Bank statements. The judge took the 28 day period as being to 29th July 2013 because there was no bank statement, he concluded, after that date.
9. Mr Makol stated that the relevant period was in fact 19th July 2013 to 19th August 2013, a later period, which was relevant and that the judge had the documents before him to show the relevant funds for this period. The judge had a statement stamped 19th August 2013 with entries ending on 29th July 2013. From this Mr Makol

concluded that the judge should have inferred that the balance would have remained the same and this was commonsense and obvious.

10. The judge specifically dealt with this point at [15] and stated

'The appellant never explained why he submitted no bank statements at that time to show the activity in the account between 29th July and 19th August 2013 and it is simply not open to me to draw the inference that between those dates the balance was always in excess of £4,900'.

11. The judge might have been more expansive in his reasoning but the judge was correct to state that he could not draw an inference on the balance of funds. Banks produce statements for a reason and a date stamp itself and alone cannot confirm that the balance had not changed from the last formal date given on the statement itself. It is clear that the date stamp has been added later. Indeed on the file of papers produced was a statement with a stamp of 13th November 2013 which was at the foot of a balance given on 27th August 2013. Page 2 of the statement and separate form page 1 showed that by 13th November 2013 that balance had indeed changed.

12. At no point did the appellant produce a bank statement to show that funds were available during this period. I could see what purported to be a copy showing a balance of £21,500.15 on 12th August 2013 but nothing for the period 29th July to 12th August. The appellant did not produce a Lloyds statement to the respondent or to the First Tier Tribunal. Nor did he produce an original even of the document he relied on and the judge noted this. As stated in the permission to appeal, the bank date stamp on the statement is merely a stamp by the bank to confirm it is genuine and does not confirm and cannot be read as confirmation by the bank that the funds given on the last date were in the account at the date of stamping.

13. The letter dated 19th August 2013 is confirmation by the bank that the funds were in the account on that date, not before. As indicated above, the funds need to be in the account for a consecutive 28 day period. Indeed there was no original evidence *even of the document purporting* to show that the funds were in the account between 29th July and 19th August 2013.

14. The appellant did not show that he held the funds for the *required period* either on the period the judge used or the period suggested by Mr Makol. I note that the statement relied on to 29th July 2013 did not comply with the evidential requirements under Appendix C.

15. I therefore find that there was no material error of law which would make a difference to the outcome and the determination shall stand.

Signed

Date 27th August 2014

Deputy Upper Tribunal Judge Rimington