



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

Appeal Number: IA/20951/2014

THE IMMIGRATION ACTS

**Heard at Glasgow
26 June 2015**

**Promulgated on
2 September 2015**

Before

**MR C M G OCKELTON, VICE PRESIDENT
UPPER TRIBUNAL JUDGE DEANS**

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

SALLY LOUISE O'HEARN

Respondent

Representation:

For the Appellant: Mr M Matthews, Senior Home Office Presenting Officer.

For the Respondent: Mr J Bryce, instructed by Mackinlay & Suttie Solicitors

DECISION AND REMITTAL

1. This appeal by the Secretary of State came before us on 26 June 2015. The Secretary of State's grounds are, in essence, that the First-tier Tribunal Judge, Judge J Grant-Hutchison, failed to properly complete consideration of the issues she had identified as requiring determination. The parties agreed, subject to what is set out below, that the appropriate remedy is for us to set aside Judge Grant-Hutchison's decision and remit the appeal to her to re-determine it in accordance with the law.

2. Mr Bryce raised a further issue. The respondent Ms O'Hearn's immigration status may be a matter for discussion. Subsequent exchanges between the parties indicate that following an application for the conditions of her leave (as a work permit holder) to be modified, she was sent a letter with the requested modification and an indication that her leave as modified now expired on 1 May 2013, and was given back her passport clearly indicating a grant of leave until 16 February 2014. She made an application for extension of her leave between those dates. If the vignette in the passport (which the Secretary of State could have modified or replaced but did not, and which, unlike the letter, is a document of identity and status) takes precedence, the application has never been properly determined.

3. The parties still hope to resolve the issue set out in the previous paragraph but in the mean time the appropriate decision for us to make is that set out in paragraph 1. In relation to Ms O'Hearn's appeal against the refusal of a Residence Card we set aside the determination of Judge J Grant-Hutchison, remit the appeal to her and direct that she re-determine it according to law.

C. M. G. OCKELTON
VICE PRESIDENT OF THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER
Date: 25 August 2015