



IAC-FH-NL-V1

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

Appeal Number: IA/49641/2014

THE IMMIGRATION ACTS

Heard at Stoke

On 12 April 2016

**Decision &
Promulgated**

On 11 May 2016

Reasons

Before

DEPUTY UPPER TRIBUNAL JUDGE CHAMBERLAIN

Between

**JAWAD KHAN
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Not represented

For the Respondent: Mr. A. McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge De Haney, promulgated on 7 July 2015, in which he dismissed the Appellant's appeal against the Respondent's decision to refuse to grant further leave to remain in the United Kingdom.
2. Permission to appeal was granted as follows:

“It looks like the Appellant’s CAS was valid when the application was made on 31 July 2014 but subsequently became invalid when the sponsor’s licence was suspended. The only evidence that the appellant knew about this is in his email of 15 October 2014. The effect of the decision on 25 November 2014 arguably denied him the 60 days to find an alternative sponsor in accordance with the respondent’s policy and common law fairness.”

3. I heard oral submissions from the Appellant and from Mr. McVeety. The Appellant was not represented. The nature of an “error of law” hearing was explained. The Appellant confirmed that he understood that it was the decision of the First-tier Tribunal which was being appealed against, not the decision of the Respondent, and it was not a chance to re-argue the points put before the First-tier Tribunal. At the end of the hearing I reserved my decision which I set out below with reasons.

Error of law

4. Paragraph [10] of the decision states:

“The Appellant today claims that he should be given further time to find another college because he was unaware that the CAS had been withdrawn. However, the copy e-mail which he has provided appears to undermine this in that that e-mail is dated 15th October 2014 and is enquiring about the status of his college, progress and classes. In these circumstances it would appear to be that the Appellant has done everything he can in contacting the Respondent but does not appear to have been able to find a course that he has been able to sign up to or ask the Respondent that he should be granted further leave in order to do so. Any 60 day period therefore seems to have elapsed in any event.”

5. It was not in dispute that, when the application was made on 31 July 2014, a valid CAS was submitted. The CAS was not valid when the Respondent made her decision on 25 November 2014. It was accepted by Mr. McVeety that, if the college’s licence had been revoked leading to the withdrawal of the CAS, a “60 day letter” should have been issued. However, it was clear from the decision that this was not the case on the evidence before the First-tier Tribunal.

6. The reasons for refusal letter states on page 2:

“The Confirmation of Acceptance for Studies Checking Service was checked on 25 November 2014 and it confirmed that the CAS, with reference number E4G1KD9D16H0U0, that you submitted with your application has been withdrawn by your Sponsor.”

7. The reasons for refusal letter does not indicate the reason that the CAS had been withdrawn.

8. There is a document at B1 of the Respondent's bundle entitled "CAS details". This states:

"The CAS has been marked as WITHDRAWN. The details are displayed below.

****WARNING - the sponsor's licence is currently suspended.****"

9. This evidence was before the judge. The suspension of a college from the Tier 4 Sponsor register would result in the withdrawal of the CAS. However, what this document does not do is indicate whether the withdrawal of the CAS and the suspension of the college were connected. There is no indication in this document of when the licence was suspended.

10. In his email of 15 October 2014, also before the First-tier Tribunal, the Appellant wrote:

"With great respect that I am a student of NABT, I send my application of visa extension under NABT, but the college is suspended now (out of list) so please update me about the progress, status and classes."

11. The judge states in his decision that the CAS was withdrawn by the Sponsor, paragraphs [3] and [11]. He does not state that this was due to the Respondent having revoked the Sponsor's licence. There was evidence before the judge that the college licence had been suspended after the Appellant made his application, but prior to the date of the decision. Such suspension would result in the withdrawal of the CAS. However, neither the "CAS details" document, nor the email from the Appellant, is evidence that it was this suspension of the college licence which led to the CAS being withdrawn. The Appellant did not provide any evidence to the First-tier Tribunal, such as correspondence from the Sponsor college, to show that it was the suspension of his Sponsor's licence which led to his CAS being withdrawn.

12. Following the Court of Appeal in EK (Ivory Coast) [2014] EWCA Civ 1517, it is only in circumstances where the Respondent has caused the CAS to be withdrawn by reason of her own actions, such as revoking the licence of a sponsor college, that an applicant is entitled to a 60 day letter. The evidence before the judge did not indicate that the CAS had been withdrawn due to the revocation or suspension of the college licence. The undated "CAS details" document did not indicate when the college was suspended. The email provided by the Appellant did not indicate that the suspension of the college was the reason for the withdrawal of his CAS.

13. The evidence before the judge was that the CAS had been withdrawn by the college. There was no evidence that this withdrawal was connected with any revocation or suspension of the college's licence. I therefore find that it was not open to the judge on the evidence before him to allow the

appeal on the basis that the Respondent had failed to exercise her own policy. The judge did not make an error of law in dismissing the appeal.

14. I have not made an anonymity direction.

Notice of Decision

15. The decision does not involve the making of a material error of law and I do not set it aside.

16. The decision of the First-tier Tribunal stands.

Signed

Date 9 May 2016

Deputy Upper Tribunal Judge Chamberlain