



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

Appeal Number: EA/03500/2015

THE IMMIGRATION ACTS

Heard at Field House

On the 29th November 2017

**Decision & Reasons
Promulgated**

On 28th December 2017

Before

**DEPUTY UPPER TRIBUNAL JUDGE PARKES
THE HONOURABLE LORD MATTHEWS
(SITTING AS AN UPPER TRIBUNAL JUDGE)**

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

[N A]

(~~ANONYMITY DIRECTION NOT MADE~~)

Respondent

Representation:

For the Appellant: Mr Chris Avery, Home Office Presenting Officer

For the Respondent: Self representing

DECISION AND REASONS

1. The Appellant, born on the [] 2010, is a citizen of the Cameroon, and is male. Although he is in fact the Respondent for the purposes of the appeal before us, this being an appeal by the Secretary of State, we will continue to refer to the parties as they were in the First-tier Tribunal below.

2. This is an appeal by [NA]. His appeal was on the basis of being a family member of an EEA national who is in the UK exercising treaty rights. His case was heard at Harmondsworth on the 31st March of this year by Judge Telford and the appeal was allowed under the Regulations in a brief decision which was promulgated on the 10th April 2017.
3. The Judge focussed on evidence that the Sponsor, the Appellant's mother, had worked for the Royal Mail and had been in receipt of job seeker's allowance. The Judge erred in a number of ways, and we do not need to go into this in great detail, that he focused on the date of the decision and not on the evidence that was available at the date of the hearing. That was itself an error. He also erred in relation to his understanding of his interpretation of Regulation 6 of the EEA Regulations 2006 and focused on the wrong issue. On that basis the decision cannot stand and we set the decision aside and we remit it to the First-tier Tribunal.
4. We would make a few more observations. The Judge was not assisted particularly by the bundle that was provided to him. The only relevant evidence to the decision of the Sponsor at the date of the decision came at pages 46 and 47 of the bundle that had been provided. Considerably more evidence of her position would have helped, when she started work, evidence of all of her payslips and supporting bank statements for the period stated. That is the sort of evidence that would have assisted the Judge in finding whether she was a worker within the meaning of the Regulations as required.
5. In remitting the case to the First-tier Tribunal we observe that the Appellant through his father has a choice whether to pursue the appeal with evidence that shows the whole picture of employment from the time of the Sponsor's arrival in the UK to date, or the family on the basis of the evidence can reapply for residence cards on the evidence that they have been here for over five years.

NOTICE OF DECISION

The appeal is allowed.

The decision is remitted to the First-tier Tribunal for rehearing.

Signed

Date 13th December 2017

Deputy Upper Tribunal Judge Parkes