



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: EA/13587/2016**

THE IMMIGRATION ACTS

**Heard at Field House
On 18 October 2017**

**Decision and Reasons
Promulgated
On 02 November 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE BAGRAL

Between

TAHIA AHMED
(ANONYMITY DIRECTION NOT MADE)

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: None

For the Respondent: Mr D Clarke, Senior Home Office Presenting Officer

DECISION AND REASONS

Anonymity

1. The First-tier Tribunal did not make an anonymity order. I have not been asked to make one and see no reason to do so.

Background

2. The Appellant appeals against the decision, promulgated on 31 January

2017, of Judge of the First-tier Tribunal Duff (hereafter “the FtTJ”), allowing her appeal against the decision of the Secretary of State of 11 November 2016 refusing to issue a Permanent Residence Card contrary to regulation 15 of the Immigration (European Economic Area) Regulations 2006 (as they then applied).

3. The Appellant is a national of Belgium born on 4 March 2005. She applied for a permanent residence card as a family member of her EEA national sponsor, namely, her father Mr Thohur Uddin Ahmed who attended today before the Upper Tribunal. The application was refused by the Secretary of State because the Appellant failed to provide evidence that she was related to Mr Ahmed.
4. The Appellant duly appealed to the First-tier Tribunal (IAC) She waived her right to an oral hearing and opted for the appeal to be decided on the papers.
5. The FtTJ considered the evidence and found the relationship proved. He accordingly found that the Appellant was entitled to a “residence card” and allowed the appeal under the “EEA Regulations”. No reference was made to the specific regulation about which the appeal was concerned. The issue that has led to these proceedings is that it is unclear whether the FtTJ intended to find that the Appellant was entitled to a document certifying her right to permanent residence in the UK, as opposed to a residence card. The omission of the word “permanent” or to regulation 15 in the Decision is unfortunate. The FtTJ was likely to have been misled by the Respondent’s refusal letter which does not refer to permanent residence or to regulation 15, but I note that the application form clearly indicates the Appellant was applying for a permanent residence card. It can thus be inferred that the FtTJ intended to find that she was entitled to that document if the relationship was proved. Matters have now moved on and since the FtTJ promulgated his Decision, the Appellant has been issued with a permanent residence card. These proceedings are now academic.
6. In the circumstances, I do not set aside the FtTJ’s decision, but for the avoidance of doubt, the appeal stands allowed under regulation 15 of the EEA Regulations.

Decision

The FtTJ did not materially err in law. The decision of the FtTJ shall stand.

Signed

Dated 1 November 2017

Deputy Upper Tribunal Judge Bagral