



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: HU/00229/2017

**THE IMMIGRATION ACTS**

Heard at Bradford  
On 10<sup>th</sup> July 2018

Decision & Reasons Promulgated  
On 18<sup>th</sup> July 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE D E TAYLOR

Between

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(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr Harris, UK Immigration Advisors

For the Respondent: Mrs Pettersen, HOPO

**DECISION AND REASONS**

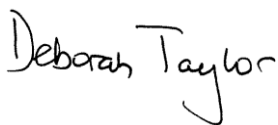
1. This is the appellant's appeal against the decision of Judge Kaler who made a determination on the papers dismissing her appeal against the respondent's decision to refuse to grant her entry clearance.
2. Judge Kaler dismissed the appeal on the grounds that the appellant could not meet the requirements of the Immigration Rules with respect to maintenance and also on relationship grounds.

3. Mrs Pettersen, on behalf of the respondent, conceded that the Immigration Judge had erred in law and that the decision ought to have been allowed on the basis of the evidence which was before her.
4. Judge Kaler erred in applying the wrong Immigration Rule in respect of the requirement in respect of income from employment. She set out Rule 2 of Appendix FM-SE in her determination, whereas in fact the correct Rule was Rule 12A.
5. The sponsor is in receipt of care allowance and accordingly does not have to meet the financial requirement of £18,600. He simply has to show that he would be able to adequately maintain his wife. He was employed at the date of decision, part-time, which paid him £100.80 per week and also receives carer's allowance of £62.10 which is well above the income support levels for a couple at £114.85.
6. Rule 12A permits pay slips to be provided covering the period of six months prior to the date of application or such shorter period as the current employment has been held. The sponsor provided pay slips for that shorter period. He began his employment on 1<sup>st</sup> June 2016 some three months before the application was made on 1<sup>st</sup> September 2016.
7. The appellant's relationship was not at issue. Moreover the judge was clearly in error when she stated that the couple had lived apart for ten years, given that they were only married eighteen months ago.

**Notice of Decision**

The original judge erred in law. Her decision is set aside. It is remade as follows. The appellant's appeal is allowed.

No anonymity direction is made.



Signed

Date 14 July 2018

Deputy Upper Tribunal Judge Taylor