



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

Appeal Number: IA/30694/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 3rd February 2018**

**Decision & Reasons
Promulgated
On 7th February 2018**

Before

Upper Tribunal Judge Chalkley

Between

**MR ADEMOLA OLASENI
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms J Heybroek of Counsel instructed by Bestway Solicitors

For the Respondent: Mr S Kotas, a Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Nigeria who was born on 13th April 1977. He appeals against the decision of the respondent taken on 1st September 2015, to maintain the revocation of a residence card under Immigration (European Economic Area) Regulations 2006 ("the regulations").
2. The appellant claims to have entered the Republic of Ireland in 2006, where he made an asylum claim that was refused in 2008. He then married an EEA national in Ireland in October 2007 and they moved to the

United Kingdom in August 2012. On 23rd August 2012, he applied for a residence card as the spouse of an EEA national which was issued on 21st February 2013. On 22nd July, 2014, the respondent revoked the residence card, as a result of which the appellant appealed.

3. His appeal hearing took place on 17th February 2015, before First-tier Tribunal Judge Lucas who allowed the appeal to the extent that it remain for the respondent to make a formal decision. The respondent issued a further revocation letter dated 1st September 2015, and the appeal then came for hearing before First-tier Tribunal Judge Colvin of Hendon Magistrates' Court on 23rd September, 2016.
4. Judge Colvin was satisfied that the respondent was justified in revoking the appellant's residence card under Regulation 22, on the grounds that the appellant had ceased the right to reside under regulations.
5. The matter came for hearing before me, when the appellant challenged Judge Colvin's determination on 22nd October 2017 by way of appeal. I directed that the respondent should make enquiries of HM Customs and Revenue to ascertain the extent to when the appellant's former spouse had ceased exercising treaty rights in the United Kingdom, if indeed she had done so.
6. Mr Kotas confirmed that on speaking to the HM Customs and Revenue hotline today they have no record of the appellant's spouse having paid PAYE for the last six years and the last record of her being self-employed as a cleaner, is an assessment for the tax year 2013 to 2014.
7. Counsel accepted that as at the date of the hearing the appellant's spouse was not exercising treaty rights and as a result any error in the determination of Judge Colvin could not be material. The decision of the First Tier Tribunal Judge stands and it was agreed that the appeal fell to be dismissed.

Summary

The appellant's counsel agreed that the determination did not contain an error of law.

The judge's decision shall stand. The appellant's appeal is dismissed.

No anonymity direction is made.

Richard Chalkley
Upper Tribunal Judge Chalkley