



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM**  
**CHAMBER**

Case No: UI-2021-001349

First-tier Tribunal Nos: EA/50499/2021  
IA/02598/2021

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On 28 March 2023**

**Before**

**UPPER TRIBUNAL JUDGE RINTOUL**

**Between**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**and**

**RITA AWUAH**  
**(NO ANONYMITY ORDER MADE)**

Respondent

**Representation:**

For the Appellant: Mr Walker, Senior Home Office Presenting Officer  
For the Respondent: Mr Norris, Lawrence & Associates, solicitors

**Heard at Field House on 8 December 2022**

**DECISION AND REASONS**

1. The Secretary of State appeals with permission against a decision of First-tier Tribunal Judge Barker allowing the appellant's appeal against a decision of the Secretary of State to refuse to issue her with a residence card under the Immigration (European Economic Area) Regulations 2016. The reason for that is as stated in paragraph 4 of the judge's decision. In essence, the Secretary of State was not satisfied that the appellant was a member of the sponsor's household or dependent on the sponsor either before arriving in the United Kingdom or since. The reasoning for that was primarily lack of documentary evidence.

2. When the matter came before the judge he heard evidence from the appellant and her sponsoring aunt, Ms Gyimah. The judge also had additional documentary evidence before him. In a careful and detailed decision the judge properly directed himself as to the law at paragraph 27, expressly addressed the lack of documentary evidence and gave cogent, detailed and entirely sustainable reasons for concluding on the oral and documentary evidence that Miss Awuah met the requirements of the Regulations. The judge carefully set out the Secretary of State's objections at paragraphs 44, 45 and reached the conclusion that the evidence of the appellant and the sponsor were credible and reliable.
3. The Secretary of State sought permission to appeal against this decision on two grounds: first that there was no documentary evidence as to what the appellant's essential needs were in Ghana, nor that the money remitted by the sponsor was used for essential needs, and there was a lack of documentary evidence as to where the appellant has been living on her arrival in the United Kingdom.; and, second, that although the judge accepted the oral evidence of the appellant and it was stated there were no credibility issues, the judge failed to note the appellant arrived in the United Kingdom using a business visit visa having stated she was staying in the United Kingdom for no longer than seven days and thus there was a failure to give adequate reasons for accepting the appellant's oral evidence as credible.
4. Mr Walker very fairly accepted that stating that there was no documentary evidence does not amount to an error of law. He accepted also that the submissions that Ms Awuah's credibility was affected by the issue of a business visit visa was not one put in the refusal letter, nor was it put before the judge.
5. At their highest these grounds are nothing more than a disagreement with what I have already described as detailed and sustainable cogent findings of fact. It is not a requirement that there be documentary evidence to support a finding; the grounds do not identify any arguable error of law. Further, there is no basis for the submission that credibility finding made after cross-examination could be impugned by a failure to take into account a point not raised at the hearing or in the refusal letter. Indeed, had the relied on such a point in those circumstances it would have been procedurally unfair.
6. Accordingly, for these reasons I find that the decision of the First-tier Tribunal did not involve the making of an error of law and I uphold it.

### **Notice of Decision**

1. The decision of the First-tier Tribunal did not involve the making of an error of law and I uphold it.

Signed

Date 28 March 2023

Jeremy K H Rintoul  
Upper Tribunal Judge Rintoul