



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Numbers: OA/02515/2013

**THE IMMIGRATION ACTS**

Heard at Columbus House, Newport  
On 1 May 2014

Determination Promulgated  
On 2 July 2014

Before

MR C M G OCKELTON, VICE PRESIDENT  
UPPER TRIBUNAL JUDGE GRUBB

Between

ENTRY CLEARANCE OFFICER, ACCRA

Appellant

and

DEBORAH AKUA NTIRIWAA ANING

Respondent

**Representation:**

For the Appellant: Mr I Richards, Senior Home Office Presenting Officer  
For the Respondent: Mr Nana Agyeman Aning, the Sponsor

**DETERMINATION AND REASONS**

1. The Entry Clearance Officer Accra appeals to this Tribunal against the determination of Judge Troup in the First-tier Tribunal allowing the appeal of the respondent, who we shall call "the claimant" against a decision on 26 November 2012 refusing her entry clearance with a view to settlement in the United Kingdom.

2. The claimant was just under 18 at the date of her application on 6 August 2012; she was therefore entitled, under paragraph 27 of the Statement of Changes in Immigration Rules, HC395 to be treated as a minor throughout the application process. The sponsor is the claimant's father. He lives in the United Kingdom with his partner and their two young daughters. The claimant's mother lives and proposes to continue to live in Ghana. By the time the matter came before the First-tier Tribunal Judge, the only issue in doubt was whether the sponsor's funds were sufficient adequately to maintain the claimant and the rest of his family.
3. The First-tier Tribunal Judge made calculations based on his perception of the evidence and of the relevant benefits levels which would be available to a similar family (including the claimant) wholly reliant on benefits. Unfortunately, however, he made at least three errors. He took the sponsor's salary from the wrong year; he took it gross instead of nett; and he failed to account for the additional entitlement to child benefit which would arise if a further child lived with the sponsor.
4. For those reasons it is clear that the First-tier Tribunal Judge erred in law. We set his determination aside.
5. A further error apparently made by the First-tier Tribunal Judge was that he assessed the claimant's application by the wrong rules. As Mr Richards explained to us, because of the date of the application, the decision fell to be made under the provisions of Appendix FM to the Immigration Rules. The financial requirements were therefore those contained in paragraph E-LTRP 3.1, requiring a specified gross annual income of at least £18,600, with an additional £3,800 for the first child and an additional £2,400 for each additional child. In the claimant's case that required her to show that the sponsor had a gross income of at least £27,200. The sponsor's income in the year including the date of the decision was not quite as high as it had been in the previous year, but there is no doubt that it was £28,911.79. The claimant is a person who therefore appears to benefit by the introduction of Appendix FM: certainly, there is no doubt that the financial requirements of the relevant Rules were met at the date of the decision.
6. Having set the First-tier Tribunal Judge's aside, therefore, we substitute our decision allowing the claimant's appeal.

C M G OCKELTON  
VICE PRESIDENT OF THE UPPER TRIBUNAL  
IMMIGRATION AND ASYLUM CHAMBER  
Date: 30 June 2014