



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

Appeal Number: HU/12696/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 3rd November 2017**

**Decision & Reasons
Promulgated
On 13th November 2017**

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

**MISS MEITAL TZABRI
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S Oyediran (legal Representative from Chris Solicitors)
For the Respondent: Mr P Nath (Senior Home Office Presenting Officer)

DECISION AND REASONS

1. This is an appeal to the Upper Tribunal by the Appellant against a Decision of First-tier Tribunal Judge Broe. Following a hearing at Taylor House on 24th January 2017, in a Decision and Reasons promulgated on 13th February 2017 Judge Broe dismissed the Appellant's appeal against the Secretary of State's decision to grant her leave to remain under the long residence provisions and on Human Rights grounds.

2. The appellant is a citizen of Israel who entered the UK on 17th May 2005 with leave to enter as a visitor. She left the UK on 9th October 2005 and returned on 26th January 2006 with leave to enter as a student. She was then granted further leave to remain as a student which finally expired on 30th November 2009. She then applied for and obtained an EEA residence card as the unmarried partner of Miss Amandine Grenier, a French national. That card had an expiry date of 24th May 2015. Her long residence application was submitted on 22nd May 2015.
3. Her application relied upon her presence as the family member of an EEA national exercising treaty rights who, she said, had been exercising treaty rights as a worker from 24th April 2010 to 24th May 2015 working at a restaurant.
4. The Secretary of State asked the appellant to provide evidence of her EEA national Sponsor's employment which she failed to do. The Secretary of State then gave the appellant a further opportunity to provide the evidence but all that was provided dated back to 2009 and 2010.
5. At the hearing before the First-tier Tribunal the appellant's evidence was that her relationship with Ms Grenier ended when Ms Grenier returned to France in 2012.
6. The Judge found that after 2012 when Ms Grenier left the UK the appellant no longer had a right to be in the UK. The Judge also found that when making her application, in saying that Miss Grenier was still exercising treaty rights until 24th May 2015, the appellant had lied. At paragraph 26 the Judge said:-

“I note that in her application the appellant said that Ms Grenier was still exercising treaty rights in this country on 24 May 2015. That was not true and she knew that it was not true. Her attempt to deflect the blame onto her adviser does her little credit. The fact is that she submitted an application which she knew contained a lie. That she described herself as single provides little mitigation.”

7. At paragraph 27 the Judge went on to say this:-

“The problem was highlighted when the respondent wrote on 14 September 2015 affording her the opportunity to provide further evidence of the exercise treaty rights by Ms Grenier. Instead of taking the opportunity to put the cards on the table at that stage she instructed her solicitors to write to the respondent saying that she had been “unable to complete evidence requested from you in your letter dated 14 September 2015 as she is waiting on HMRC to provide her partner's employment history.” It seems that some additional documentary evidence was provided with a further letter which is not before me. It is clear that the appellant was prepared to maintain the facade necessary, as she saw it, to support the application. This

casual recourse to dishonesty does her no credit and it inevitably affects my assessment of the rest of the evidence in this case.”

8. The appellant sought permission to appeal and this was granted purely on the basis that the Judge’s conclusion that she was dishonest, which affected the entirety of the findings, in particular the proportionality exercise when considering Article 8 failed to take into account a letter from her then legal advisers to the Secretary of State dated 26th October 2016 which would have shown that she had not been dishonest. A copy of that letter was attached to the application for permission to appeal.
9. The copy of that letter provided with the application for permission to appeal is not signed and indicates to the Home Office that the appellant’s relationship with her EEA partner broke down in 2012.
10. It is clear that it was that letter, which it was claimed the judge failed to take into account, was the sole justification for the grant of permission to appeal. I have made a careful search of the Tribunal’s file and there is no other copy of that letter on the file or contained in the respondent’s bundle or indeed the appellant’s bundle. There are other letters from those representatives and I note that all of those are signed.
11. I asked Mr Nath to make a careful search of the Home Office file and he had no copy of the letter either.
12. I have examined the record of proceedings of the hearing before Judge Broe and there is no reference in that to a letter of October 2016 either. I am led therefore to the inevitable conclusion that that letter was not in fact before the Tribunal. If it was not before the Tribunal then the Tribunal cannot be criticised for failing to take it into account and the Judge was therefore entitled to find, as he did, that the appellant had acted dishonestly in seeking to suggest she was residing in accordance with the EEA Regulations for several years after her partner had left the UK.
13. For the above reasons I find the first-tier Tribunal did not make an error of law in its determination of this appeal.

Notice of Decision

The appeal to the Upper Tribunal is dismissed

There was no application for an anonymity order and I see no reason to make one.

Signed

Date 9th November 2017

Upper Tribunal Judge Martin