



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: EA/03381/2019(P)

THE IMMIGRATION ACTS

Decision under Rule 34
Without a hearing

19th August 2020

Decision & Reasons
Promulgated
On 24th August 2020

Before

UPPER TRIBUNAL JUDGE COKER

Between

KHALIL AHMED CHAUDHRY

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

Respondent

DETERMINATION AND REASONS(P)

1. FtT Judge Brookfield dismissed the appellant's appeal against the refusal of his application for permanent residence for reasons set out in a decision promulgated on 2nd October 2019. In a decision made on 2nd April 2020 I granted permission to appeal the decision on the grounds that it was arguable that the FtT judge had construed the EEA Regulations as requiring financial dependency alone rather than considering dependency as a whole including emotional, accommodation and food. The evidence of this dependency and that some financial assistance was provided by the sponsor's other son was not the subject of challenge by the respondent.
2. In granting permission I offered the preliminary view that the appellant had been resident in accordance with the EEA Regulations, namely dependent upon his father given the financial, emotional and accommodation

circumstances that existed and that he acquired permanent residence on 12th November 2014. I directed that in the light of this, it was my preliminary view that the appropriate course of action would be to set aside the FtT decision for error of law and allow the appeal under the EEA regulations.

3. I directed that unless, within 21 days of the issuing of that preliminary view, there was any written objection to that course of action, the Upper Tribunal would proceed to set aside the FtT decision and remake the appeal by allowing it and that in the absence of any written objection, the Upper Tribunal would presume there was no objection.
4. My decision to grant permission to appeal and preliminary view and directions was sent to the parties on 30th June 2020.
5. As of 19th August 2020, more than 21 days after the sending of my preliminary decision, the respondent has not objected to the proposed course of action and has not requested an extension of time to formulate any objections.
6. Accordingly I am satisfied there is an error of law in the decision by the FtT such that I set aside the decision to be remade.
7. I remake the decision by allowing the appeal against the decision of the respondent to refuse the appellant's application for a permanent residence card.

Conclusions:

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

I set aside the decision.

I re-make the decision in the appeal by allowing it.

Jane Coker
Upper Tribunal Judge Coker

