



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

Case No: UI-2022-003685

First-tier Tribunal No: EA/11108/2021

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On 25 March 2023**

**Before**

**UPPER TRIBUNAL JUDGE KAMARA**

**Between**

**Mrs Nimra Manzoor**  
**(NO ANONYMITY ORDER MADE)**

Appellant

**and**

**Secretary of State for the Home Department**

Respondent

**Representation:**

For the Appellant: Mr S Mustafa, counsel

For the Respondent: Ms S Cunha, Senior Home Office Presenting Officer

**Heard at Field House on 23 January 2023**

**DECISION AND REASONS**

Introduction

1. This is an appeal against the decision of First-tier Tribunal Judge K R Moore promulgated on 29 June 2022.
2. Permission to appeal was granted by First-tier Tribunal Judge Karbani on 26 July 2022.

Anonymity

3. No anonymity direction was made previously, and there is no reason for one now.

Background

4. On 6 December 2020, the appellant, who is a national of Pakistan, made an application for an EEA Family Permit to join her brother in the United Kingdom, as an extended family member. That application was refused on 18 December 2020. The Entry Clearance Officer did not accept that the appellant's brother was residing in the United Kingdom in accordance with Regulation 6 of the Immigration (European Economic Area) Regulations 2016. In addition, it was not accepted that the appellant was dependent upon her brother to meet her essential needs.

#### The decision of the First-tier Tribunal

5. At the hearing before the First-tier Tribunal, counsel for the appellant advised the judge that the respondent had issued the sponsor's parents with leave to enter under the European Union Settlement Scheme and had conceded the appeal of the sponsor's brother and that this addressed the issue of whether the sponsor was a qualified person under Regulation 6. The appellant lived with her parents and brother in one household in Pakistan. The judge accepted that submission but was not prepared to accept that the appellant was dependent upon the sponsor for her essential needs owing, principally, to an absence of evidence of her expenses.

#### The grounds of appeal

6. The grounds of appeal argued, in essence, that the judge misdirected himself in concluding that the appellant was not dependent given the number of findings he made which support the contrary position as well as the evidence before him.
7. Permission to appeal was granted on the basis sought, with the judge granting permission making the following remarks.

The Judge at [18] states that he cannot know whether the monies were sent to meet the appellant's essential needs are. It is an arguable error of law that the Judge has not considered the material evidence as to what the appellant's essential needs are as set out in her witness statement at [8] page 13 of the appellant's bundle.

8. The respondent did not file a Rule 24 response.

#### The hearing

9. Before me, Ms Cunha confirmed that there was no Rule 24 response. In addition, the respondent did not have access to the appellant's bundle in this matter. Mr Mustafa was able to forward that item by email at the beginning of the hearing and Ms Cunha confirmed receipts of it. Thereafter I heard succinct submissions from each representative on the narrow point identified in the grounds. At the end of the hearing, I announced that I was satisfied that the judge materially erred in law and set aside his decision, retaining all his findings except for at [18] and [19] where the judge said that he did 'not know that the appellant's essential needs' were. After inviting further submissions from Ms Cunha, I proceeded to remake the appeal by allowing it based on the evidence already before me. My reasons are set out below.

#### Decision on error of law

10. This appeal involves a narrow point, that being whether the appellant was dependent upon the sponsor for her essential living needs.
11. At page 49 of the appellant's bundle, in the sponsor's witness statement, details of the nature of the appellant's expenditure are set out. At page 53, in the appellant's witness statement, she gives details of what she buys with the money sent by the sponsor and states that she has no other source of income. In essence, the respective witness statements state that the appellant uses the money sent by the sponsor for her essential needs including clothing, utilities, medical care, and travel. Accordingly, the judge erred in stating that he 'did not know' what the appellant's needs were. While there was no corroborating evidence before the judge, it was explained that the appellant lived in a rural area and any expenditure was made in cash. Indeed, at [17], the judge accepted that account and noted at [19] that there were difficulties in the appellant providing further detail. Furthermore, at [19], the judge records that the sponsor 'had some idea' of the appellant's outgoings and expenditure which 'included internet fees, food and attending weddings.' Lastly, [18], the judge accepts that the sponsor has been sending funds directly to the appellant for years and at [19] the judge did not dispute that the appellant had no other source of income. There was no criticism of the appellant's written statement or of the sponsor's written or oral evidence. Indeed, the sponsor has been found to be a credible sponsor, as evidenced by the grant of entry clearance to his parents and brother who he also supported. I conclude that the judge's failure to have regard to the description of the appellant's essential needs in her witness statement and that of the sponsor amounts to a material error of law. The decision of the First-tier Tribunal is set aside. In terms of discrete findings, all are preserved with the exception of the offending sentence, to the effect that the judge did not know what the appellant's essential needs were.

#### Remaking

12. The appellant is a lone female residing in a village in Pakistan with no other source of income other than the sponsor's remittances and from a cultural perspective is unable to work. Considering the many favourable findings by the First-tier Tribunal along with the adequately detailed and consistent account provided by the appellant and sponsor as to her essential living needs, I find, on balance, that she is an extended family member of her EEA sponsor in that she is dependent upon him to meet her essential needs.

#### **Conclusions**

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

**I set aside the decision to be re-made.**

**I substitute a decision allowing the appeal under the Immigration (European Economic Area) 2016.**

T Kamara

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**24 January 2023**

**TO THE RESPONDENT**  
**FEE AWARD**

No fee is paid or payable and therefore there can be no fee award.

T Kamara

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**24 January 2023**

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**NOTIFICATION OF APPEAL RIGHTS**

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.
6. The date when the decision is "sent" is that appearing on the covering letter or covering email