



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

Appeal Number: IA/22804/2014

THE IMMIGRATION ACTS

Heard at Field House

On 1st June 2015

Determination

Promulgated

On 9th June 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE WOODCRAFT

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MR JOHN TEYE
(ANONYMITY DIRECTION NOT MADE)**

Respondent

Representation:

For the Appellant: Ms L Kenny Home Office Presenting Officer

For the Respondent: No attendance

DECISION AND REASONS

The Appellant

1. The Respondent to this appeal is a citizen of Ghana born on 25th August 1969. He successfully appealed against a decision of the Appellant dated 13th May 2014 to refuse his application for a Residence Card under the Immigration (European Economic Area) Regulations 2006. His appeal was allowed at the first instance by Judge of the First-tier Tribunal Wiseman sitting at Richmond on 27th January 2015. Although the

Respondent could not show he was a family member of a qualifying person under Regulation 7 as a spouse he was nevertheless in a permanent relationship with his partner. He was thus an extended family member under Regulation 8. The Appellant appealed against that decision arguing that the Judge should have found the decision to refuse not in accordance with the law such that a decision under Regulation 8 remained outstanding for the Appellant to take.

2. Permission to appeal was granted on 27th March 2015 by Upper Tribunal Judge Martin and the Upper Tribunal sent out a notice of hearing to the parties on 5th May 2015 advising them of the hearing of the appeal fixed for 1st June 2015. On 21st May 2015 the Appellant decided to grant the Respondent's application for a Residence card without waiting for the outcome of her appeal. I was told that the case worker had decided to review the file before the matter came into court.
3. At the hearing before me the Presenting Officer indicated that in these circumstances the Appellant wished to withdraw her appeal and sought the leave of the Tribunal under Rule 17 (1) (b) of the Tribunal Procedure (Upper Tribunal) Rules 2008 which provides that notice of withdrawal may be given orally at the hearing. Pursuant to Rule 17(2) I indicated that the Upper Tribunal would consent to that course of action. As the Respondent's solicitors had noted in a letter to the Upper Tribunal dated 28th May 2015 the appeal had now become academic in the light of the grant and it was in accordance with the overriding objective that the appeal be withdrawn and the case closed.

Notice of Decision

Leave to the Appellant to withdraw her appeal.

Appeal withdrawn

I make no anonymity order as there is no public policy reason for so doing.

Signed this 5th day of June 2015

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Deputy Upper Tribunal Judge Woodcraft

TO THE RESPONDENT
FEE AWARD

The fee award made at first instance shall stand.

Signed this 5th day of June 2015
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Deputy Upper Tribunal Judge Woodcraft