



IAC-AH- -V1

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

Appeal Number: IA/23946/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 26 January 2015**

**Determination Promulgated
On 6 February 2015**

Before

UPPER TRIBUNAL JUDGE E B GRANT

Between

**MR FAZEEL AKHTAR BUTT
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Iqbal of Counsel

For the Respondent: Mr Shilliday, Senior Presenting Officer

DECISION AND REASONS

1. The appellant was granted permission to appeal a determination of FTTJ Hague in which the Judge found the appellant had not established that he was a dependent family member of an EEA national exercising treaty rights in the United Kingdom.
2. The grounds submit the judge erred in failing to make findings on the appellant's credibility, that the judge erred in failing to record that the appellant received 1,500 Euros for maintenance in December 2012, that the Judge erred in finding that the appellant was required to accompany

the sponsor to the United Kingdom whereas he was also entitled to “join” his sponsor and failed to make findings on whether the appellant’s work in Italy made him financially independent. Reliance is placed upon a handwritten document placed before the Judge at the appeal hearing.

3. The respondent opposes the application and submits that even if the Judge had noted down the payment of 1,500 Euros in December 2012 it could not make any difference to the outcome of the appeal because the appellant is required to show dependency prior to entering the United Kingdom. Secondly the guidance on extended family members states that the extended family member must have come to the UK at the same time as the sponsor, just before or recently thereafter. The appellant arrived over a year and a few months after the EEA national left therefore dependency is broken by passage of time. The Judge found the appellant was vague and the findings at paragraphs 10 and 11 are properly reasoned. Paragraph 12 is a summary the Judge was entitled to make.
4. The Judge had to decide whether the appellant was an extended family member and to make that finding he had to examine whether the appellant had shown he was dependent upon the sponsor.
5. The appellant arrived in the United Kingdom on 24 April 2011 as a student. After completing his studies he returned home to Pakistan for a few months and then he joined the sponsor in Italy. They remained together until going their separate ways at the end of December 2012 when the sponsor came to the UK to exercise treaty rights and the appellant went to Rome.
6. The judge had evidence before him in the appellant and sponsor’s witness statements and in oral evidence before him. The record of Proceedings shows that the judge was given contradictory evidence from the appellant and sponsor about money allegedly left with the appellant by the sponsor when he left for the United Kingdom. The appellant said he received €1,500 the sponsor said he left him €2,200-€2,300.
7. The Judge found that had the appellant been a dependent family member he could have been expected to have accompanied his sponsor to the United Kingdom in December 2012, In fact the appellant went to Rome to seek work. The Judge, having heard the evidence, was not satisfied the appellant was a dependent family member noting that the appellant did not accompany the sponsor to the United Kingdom but went to Rome where he gave evidence that he worked. Although the judge accepted the evidence of monthly payments of €500 that does not establish dependency which is a matter of fact for the Judge to determine having heard all the evidence which showed the appellant living in his own accommodation in Rome and working some of the time.

8. The alleged payment of €1,500 could not make any difference to the outcome of the appeal because it predates by some fifteen months the appellant's arrival in the United Kingdom which was preceded by his residence in Rome for 15 months in a property which had no connection to the sponsor. I have taken into the account the notes of the Judge which show the appellant and his brother gave discrepant evidence about the alleged payment of €1,500 giving different amounts. There was no clear evidence before the Judge that €1,500 had been paid and unlike the later payments no documentary evidence to support it. In the circumstances although the Judge did not expressly refer to that evidence he was entitled to give little weight to it in coming to his findings and in finding that the appellant was not a dependent relative of his brother before he entered the United Kingdom the Judge did not err in law.
9. The payment of Euros into the appellants account for his student visa application in 2011 could not affect the outcome of the appeal before the Judge and did not show he was dependent immediately prior to his arrival in the United Kingdom. By failing to make any finding about the irrelevant matter of the student funding 2011 the Judge did not err in law.
10. If the appellant was dependent upon the sponsor when they lived together in Seregna this dependency was broken when he went to Rome for 15 months in December 2012 and the sponsor came to the United Kingdom and this was a finding properly open to the Judge on the evidence before him.
11. Overall the findings reached by the Judge were properly open to him on the evidence before him. The grounds and submissions before me by Mr Iqbal amount to a lengthy disagreement with the findings of the Judge and an attempt to reargue the appeal. They disclose no arguable error of law.

Notice of Decision

Conclusions:

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside the decision

The decision of the First-tier Tribunal stands.

No anonymity direction is made.

Signed

6 February 2015

Deputy Upper Tribunal Judge E B Grant

TO THE RESPONDENT
FEE AWARD

I have dismissed the appeal and therefore there can be no fee award.

Signed

6 February 2015

Deputy Upper Tribunal Judge E B Grant