



IAC-AH-SC-V1

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

Appeal Number: IA/26224/2014

THE IMMIGRATION ACTS

Heard at Bradford

On 15 June 2015

**Decision &
Promulgated**

On 15 July 2015

Reasons

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

**CINTIA LENDVAI
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Not present or represented

For the Respondent: Mrs R Pettersen, a Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, Cintia Lendvai, was born on 23 June 1996 and is a citizen of Hungary. The appellant appealed to the First-tier Tribunal against a decision to remove her, the respondent having determined that the appellant and her husband (hereafter referred to as the sponsor) were parties to a marriage of convenience. The First-tier Tribunal (Judge K Henderson), in a determination promulgated on 7 October 2014, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. At the Upper Tribunal hearing at Bradford on 15 June 2015, the appellant did not attend. I had received a letter dated 1 June 2015 from RKS Solicitors notifying the Tribunal that they were “formally withdrawing” their representation of the appellant. The letter states that the “sponsor” (*sic*) may be contacted at her home address of [-]. That is the address to which the notice of hearing was sent to the appellant by first class post on 22 May 2015. The appellant has not provided any satisfactory explanation for her failure to attend. I am satisfied that the notice of hearing has been duly served upon her. In the circumstances, I proceeded with the hearing in the absence of the appellant/any representative.
3. The grounds of appeal take issue with the judge’s finding that there was “insufficient evidence to show the appellant was exercising Treaty Rights as a qualified person in her own right.” [33]. The judge considered the various items of evidence which the appellant had produced which the appellant claims showed that she was exercising treaty rights as a worker. The judge noted that the respondent had “referred to the fact that [the appellant] has no qualifications or work experience” as a secretary; she produced a letter from Alliance Careers Limited indicating that she was employed as a secretary on a part-time basis. The appellant had told the respondent at interview that she was qualified as a hairdresser. The judge wrote,

“[The appellant] stated at the interview she did not complete the course. I am not satisfied on the information provided that she has a qualification to work as a secretary or that the provision of this job was anything other than assisting her husband’s application. There was insufficient evidence to show that she is exercising treaty rights as a Qualified Person in her own right under Regulation 6 of the 2006 Regulations. ”

I consider that that finding was available to the judge on the evidence before her. She has supported her finding with proper analysis of the evidence and adequate and cogent reasons. The grounds of appeal are, therefore, as regards the exercise of treaty rights by the appellant, are nothing more than a disagreement with findings available to the judge.

4. The grounds of appeal also take issue with the judge’s finding that the appellant and sponsor were engaged in a marriage of convenience. Once again, I find that this ground is little more than a disagreement with the judge’s finding. The judge has conducted an extremely thorough examination of the evidence, including the oral evidence given before her in court. She noted numerous inconsistencies in the evidence of the appellant and sponsor as to their relationship and was, in my opinion, fully entitled to conclude that the couple had little knowledge of each other’s lives and that they had contracted a marriage of convenience. The grounds complain that the judge should not have found that the appellant had attempted to “construct evidence” of a genuine relationship when there was clear evidence that the appellant and sponsor had been present together at the same address when that address had been visited by an enforcement team. The grounds appear to suggest that the fact that the couple were together at the date of that visit is conclusive evidence of the

genuineness of their relationship. That submission is without merit. The judge has, quite properly, identified evidence which was in favour of a finding that the couple were engaged in a genuine marriage [51]. However, it was the task of the judge to weigh the evidence as a totality and it was plainly open to her to conclude that the relationship was not genuine notwithstanding the evidence regarding the enforcement team visit. Indeed, the inconsistencies in the evidence of the appellant and sponsor identified by the judge were such that, in my opinion, the judge was entirely justified in concluding that the relationship was not genuine.

5. Further, the judge did not err in dismissing the appeal on Article 8 ECHR grounds. Having concluded that the marriage was one of convenience and that the relationship was not genuine, there was no prospect of the appeal succeeding on Article 8 family life grounds.

Notice of Decision

6. This appeal is dismissed.
7. No anonymity direction is made.

Signed

Date 10 July 2015

Upper Tribunal Judge Clive Lane

TO THE RESPONDENT FEE AWARD

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

Signed

Date 10 July 2015

Upper Tribunal Judge Clive Lane