



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: OA/10126/2014**

THE IMMIGRATION ACTS

**Heard at Manchester
On 7 May 2015**

**Determination Promulgated
On 18 May 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE PLIMMER

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

MR MD CHOWDHURY

Respondent

Representation:

For the Appellant: Mr Harrison (Home Office Presenting Officer)

For the Respondent: Mr Islam (Maya Solicitors)

DECISION AND REASONS

1. The appellant ('the SSHD') appeals against a decision of First-tier Tribunal Judge D Dickinson dated 28 January 2015 in which he allowed the respondent's (the claimant's) appeal.
2. The issue before the First-tier Tribunal was whether or not the SSHD displaced the burden upon her to establish that the claimant employed deception when he took an English test on 19 November 2013.

3. In grounds of appeal the SSHD submitted that the Judge made findings that are materially flawed and / or unreasoned. At the hearing before me Mr Harrison simply relied upon the grounds of appeal. I deal with each in turn below.
4. I do not accept that the decision is insufficiently reasoned. The Judge has provided adequate reasoning for the SSHD to understand why she has lost. He did not regard the evidence relied upon to be sufficiently specific to this claimant for the reasons he provides.
5. The Judge was well aware of the straightforward ETS Lookup Tool document that provided the claimant's details and showed his test to be invalidated. The Judge's concern was however that there was insufficient specified evidence as to why this particular claimant's test was invalidated [16]. The Judge was aware of the witness statements relied upon by the SSHD but did not consider those met the concerns he outlined. It is submitted that the witness statements submitted on behalf of the SSHD provided the precise reasons why the claimant's scores were invalidated i.e. he used a proxy taker. The Judge clearly took into account those statements [15] and was entitled to conclude that there were other reasons for invalidation [16-17].
6. The grounds amount to no more than a disagreement with the Judge's findings and do not disclose any error of law.

Decision

7. The decision of the First-tier Tribunal did not involve the making of a material error of law.

Signed:

Ms M. Plimmer
Deputy Judge of the Upper Tribunal

Date: 8 May 2014