



IAC-UT

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

Appeal Number: IA/08754/2013

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 17 February 2016**

**Decision & Reasons Promulgated  
On 18 March 2016**

**Before**

**Mr H J E LATTER  
(DEPUTY UPPER TRIBUNAL JUDGE)**

**Between**

**MUHAMMAD NAWAZ  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: No appearance

For the Respondent: Mr S Kotas, Home Office Presenting Officer

**DECISION AND REASONS**

1. This is an appeal by the appellant against a decision of the First-tier Tribunal (Judge Kelly) dismissing his appeal against the respondent's decision dated 5 March 2013

refusing his application for further leave to remain as a Tier 4 (General) Student Migrant.

2. There was no appearance by the appellant. I am satisfied that the notice of hearing was properly served at the appellant's address for service. No explanation has been provided for his failure to appear. However, I note that since the hearing of this appeal before the First-tier Tribunal, the appellant has been successful in an appeal (IA/11782/2015) against an adverse decision relating to his rights of residence as the spouse of an EEA national exercising treaty rights in the UK. I am satisfied that the proper course is to proceed with the hearing of this appeal.

### Background

3. The appellant is a citizen of Pakistan born on 4 September 1988. He obtained entry clearance to the UK as a Tier 4 (General) student on 24 February 2011 valid until 27 June 2012. He received a further extension but his college licence was revoked and his leave to remain curtailed to expire on 17 December 2012. Meanwhile the applicant had made a further application on 5 December 2012 to continue his studies.
4. He was able to meet the requirements of Appendix A (Attributes) but not the requirements of Appendix C. He was required to demonstrate funds of £9000 held for 28 days as at the date of his application. He submitted a letter dated 30 November 2012 and a bank statement from 12 October 2012 to 12 November 2012 from Meezan Bank in Pakistan but using the OANDA exchange conversion table, the respondent noted that the value of Pakistan rupees dropped below the equivalent of the required amount of £9000 from 16 October 2012 to 22 October 2012. As the appellant could not meet the requirements of the rules his application was refused.
5. The appellant appealed against this decision and asked for his appeal to be decided on the documentary evidence only. He submitted a bundle of documents in support of his appeal but the judge commented that the appellant did not suggest that the respondent had applied an incorrect conversion rate to the balances of the account or that she had inaccurately applied that rate. The appellant merely asserted that the balance of his account remained above the sterling equivalent of £9000 at all material times. The judge found that the appellant had failed to prove that he met the maintenance requirements of the rules for the relevant period and his appeal was accordingly dismissed.
6. Permission to appeal was granted on the basis that the grounds asserted that the appellant had submitted evidence with his application that he had funds in his account throughout the period prescribed in excess of £9.000 and that the letter from the respondent did not show the calculations or the figures to justify the assertion that the monies in the account fell below the prescribed figure

Assessment of whether there is an Error of Law

7. No further evidence has been submitted in support of the appeal. Mr Kotas submitted that the judge had reached a decision properly open to him. The conversion table used by the respondent had been disclosed to the appellant and formed part of the appeal papers. The OANDA currency converter confirmed that on the days identified in the decision the balance in the appellant's account had fallen below £9000.
  
8. I am not satisfied that the judge erred in law. This is not a case where the judge acted on unsubstantiated assertions. There was no evidence before him to contradict the evidence about the conversion rate used by the respondent in assessing whether the appellant could meet the requirements of the rules. The rate of exchange relied on and the calculations were provided to the appellant who had an opportunity of producing evidence to show that they were inaccurate. He failed to do so. In these circumstances the judge reached a decision properly open to him for the reasons he gave.

Decision

9. The First-tier Tribunal did not err in law and its decision stands.

Signed HJ E Latter

H J E Latter  
Deputy Upper Tribunal Judge

Date: 1 March 2016