



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: IA388062014

THE IMMIGRATION ACTS

Heard at Field House
On 18 May 2016

Decision & Reasons Promulgated
On 24 May 2016

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

**BENARD EGUONO OGIGBAH
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Omoniruvbe, Counsel, instructed by Church Street Solicitors
For the Respondent: Mr I Jarvis, Senior Presenting Officer

DECISION AND REASONS

1. The Appellant, a national of Nigeria, date of birth 30 September 1980, appealed against the Respondent's decision, dated 2 October 2014, to refuse to issue a

residence card with reference to the Immigration (European Economic Area) Regulations 2006 (the 2006 Regulations) on the basis that the Secretary of State was not satisfied that the Appellant's Sponsor was a qualified person for the purpose of Regulation 6 of the 2006 Regulations. Other issues were raised which are of no significance.

2. The matter came before First-tier Tribunal Judge Bird who, on 15 September 2015, dismissed the appeal on the basis that the Appellant had not adduced the necessary evidence to show that on a balance of probabilities the EEA Sponsor, Miss Romana G Derby, was a qualified person.
3. On 29 February 2016, First-tier Tribunal Judge V P McDade gave permission to appeal. On 24 April 2016 I found the Original Tribunal's decision could not stand and the matter would require a resumed hearing in the Upper Tribunal.
4. On 18 May 2016 prior to the hearing there was produced by JDS Solicitors an accountant's report in connection with EEA Sponsor together with her tax return for the relevant period ended 5 April 2016 in which evidence was submitted to show at the material times the Sponsor was exercising treaty rights. Mr Jarvis confirmed with the Appellant's accountants by telephone speaking with the relevant director as to production of the documents and as to the Sponsor's income.
5. In those circumstances Mr Jarvis was satisfied that the evidence now showed that the Appellant did meet the requirements for a residence certificate with reference to Rule 17(1)(a) and Regulation 6 of the 2006 Regulations that the Appellant was entitled to the residence card sought.
6. The Original Tribunal's decision under the 2006 Regulations did not stand. All other aspects of the Original Tribunal's decision stand.
The following decision is substituted.
The appeal is allowed under the 2006 Regulations.

Anonymity Order

7. No anonymity order was sought and none is required.

Fee Award

8. The position is that this appeal has now succeeded through the later production of evidence required. In the circumstances therefore it does not seem to me that a fee award in the sum of £140 is appropriate.

Signed

Date 22 May 2016

Deputy Upper Tribunal Judge Davey