



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: HU/07436/2019 (P)

**THE IMMIGRATION ACTS**

Decided under rule 34  
Without a hearing  
On 14 June 2020

Decision & Reasons Promulgated  
On 25 June 2020

Before

UPPER TRIBUNAL JUDGE SHERIDAN

Between

JASVINDER SINGH  
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: J Gajjar, Counsel instructed by Regal Law Solicitors  
For the Respondent: No submissions received

**DECISION AND REASONS**

**Background**

1. The appellant is appealing against a decision of Judge of the First-tier Tribunal Devittie promulgated on 21 October 2019. Permission to appeal was granted on 11 February 2020. The hearing was listed for 8 April 2020. However, because of the Covid-19 pandemic, the hearing was postponed. Directions were issued by the Vice President of the Upper Tribunal giving

the provisional view that it would be appropriate to determine the error of law issue in this appeal without a hearing. The parties were directed to make further submissions in writing and given an opportunity to express their view on whether a hearing would be necessary. Mr Gajjar, on behalf of the appellant, submitted submissions dated 12 April 2020. No objection to the appeal being determined without a hearing was made in the submissions. Submissions from the respondent have not been received. Having considered Mr Gajjar's submissions alongside the other relevant documents (including the bundle of documents that was before the First-tier Tribunal), I am satisfied that I am in a position to determine this appeal fairly and justly without a hearing.

2. The appellant is a citizen of India who was born on 11 July 1973. He claims to have been in the UK continuously since 1994 and therefore that he satisfies the condition of para. 276 ADE (1)(iii) (lived continuously in the UK for at least 20 years) of the Immigration Rules.
3. In support of his application to the respondent, the appellant submitted multiple tenancy agreements, covering the period between 1994 and 2016. In the respondent's refusal letter dated 8 April 2019, it is stated that the tenancy agreement paperwork was not sufficient and that it was expected that the appellant would be able to provide additional evidence from other sources.
4. The appellant appealed to the First-tier Tribunal where his appeal was heard by Judge of the First-tier Tribunal Devittie ("the judge"). In a decision promulgated on 21 October 2019, the judge dismissed the appeal.

#### **Decision of the First-tier Tribunal**

5. The judge found that the appellant had not provided sufficient evidence to establish 20 years continuous residence in the UK. At para.6, the judge stated:

"The only documentary evidence he has presented to show long residence are the tenancy agreements. If it is the case that he was able to secure a tenancy in his name it must follow that he was engaged in some form of economic activity and therefore some financial transactions which would be recorded showing his name. The evidence of his friend, standing alone, if [sic] not sufficient to show long residence. I do not accept his explanation that he could not, after a 20 year period of residence, have called other witnesses to support his claim. His explanation that all his potential witnesses had travelled to India does not in my view merit belief."

6. The judge also found that there would not be very significant obstacles to the appellant's integration in India.

## Grounds of Appeal and Submissions

7. The grounds of appeal argue that, because he was living without status, it was irrational to expect the appellant to have documentary evidence of his presence in the UK other than the tenancy agreements. Reliance is placed on the observation of Beatson LJ at para. 61 of Khan, R (on the application of) v Secretary of State for the Home Department [2016] EWCA Civ 416, that:

“It is likely that those in the United Kingdom without leave, and therefore without status, will have no official documentation, particularly in the early period of their residence. Thirdly, although most of the documents listed by the Secretary of State can be classified as "official" in the sense that they are from institutions and not individuals, a tenancy agreement and a letter from a landlord, which are listed, are difficult to classify as "official".”
8. The grounds note that the judge did not raise an issue as to the authenticity of the tenancy agreements.
9. In addition to the rationality challenge, the grounds submit that the judge erred by failing to give adequate reasons for finding the tenancy agreements were insufficient.
10. Mr Gajjar’s submissions reiterate the points made in the grounds of appeal. They also set out a list of the tenancy agreements adduced by the appellant, which cover the period between 1994 and 2016, and note that the appellant’s claim was corroborated by letters from friends.

## Analysis

11. As noted in Khan, a person in the UK without status can be expected to lack *official* documentation. That does not mean, however, that in all cases they will lack any - or almost any- *non-official* documentation. The amount, and nature, of documentation a person will have will vary depending on their circumstances.
12. The appellant adduced, in order to demonstrate continuous residency, multiple formal tenancy agreements covering the period 1994 to 2016. Several of the agreements indicate that he was paying a substantial amount of money in rent. For example, an agreement dated 13 March 2014 - 2016 specifies a monthly rent of £1,050.
13. As stated at para 90.2 of R (Iran) and others v SSHD [2005] EWCA Civ 982:

"A finding might only be set aside for error of law on the grounds of perversity if it was irrational or unreasonable in the Wednesbury sense, or one that was wholly unsupported by the evidence."
14. Given that the appellant was able to provide formal tenancy agreements covering the entirety of the period in question and that these indicate that he

was, for some of that period, paying a substantial sum of money in rent, it was not irrational or perverse for the judge to find that the appellant would have been engaged in some form of economic activity and therefore that there would have been at least some financial transactions recorded in his name. The judge was therefore entitled – and it was not irrational – to find that, in the circumstances of this case, the tenancy agreements were not sufficient in the absence of any other documentary evidence to establish residency in the UK.

15. I am also not satisfied that there is merit to the appellant's claim that the judge failed to give adequate reasons. Although the decision is brief, a tribunal's reasons need not be extensive if the decision makes sense: see para.11 of MK (duty to give reasons) Pakistan [2013] UKUT 641 (IAC). It is clear (in particular from para. 6 of the decision, cited above at para.5) that the judge identified and recorded in a way that is readily understandable why he concluded that the appellant had not provided sufficient evidence to establish continuous residence. Those reasons, in summary, are that (a) given the appellant was able to secure tenancy agreements he would have been engaged in economic activity which would have produced at least some records; (b) the evidence of his friend was insufficient (the friend had only known him since 2002, and therefore taken at its highest this evidence did not show 20 years of residence); and (c) the appellant did not call any other witnesses and gave an explanation for their absence (that they had travelled to India) that the judge did not find merited belief.
16. Accordingly, I am satisfied that the judge was entitled, for the reasons he gave, to not accept that the appellant had resided in the UK for a continuous period of 20 years. The grounds therefore do not identify an error of law.

### **Decision**

17. The appeal is dismissed. The making of the decision of the First-tier Tribunal did not involve the making of an error of law and the decision stands.

Signed:

*D. Sheridan*

Upper Tribunal Judge Sheridan

14 June 2020

### NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be received by the Upper Tribunal within the appropriate period after this decision was sent to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
2. Where the person who appealed to the First-tier Tribunal is in the United Kingdom at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is 12 working days (10 working days, if the notice of decision is sent electronically).
3. Where the person making the application is in detention under the Immigration Acts, the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically).
4. Where the person who appealed to the First-tier Tribunal is outside the United Kingdom at the time that the application for permission to appeal is made, the appropriate period is 38 days (10 working days, if the notice of decision is sent electronically).
5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.
6. The date when the decision is "sent" is that appearing on the covering letter or covering email