



**Upper Tribunal  
(Immigration and Asylum Chamber) Appeal Number: HU/13588/2019  
(V)**

THE IMMIGRATION ACTS

**Heard at George House, Decision & Reasons Promulgated  
Edinburgh On 9<sup>th</sup> November 2020  
by Skype for Business  
On 4<sup>th</sup> November 2020**

Before

UT JUDGE MACLEMAN

Between

**AMRAN**

and

Appellant

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

Respondent

For the Appellant: Mr P G Farrell, of Peter G Farrell, Solicitors  
For the Respondent: Mr S Whitwell, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. This determination is to be read with:
  - (i) Respondent's decision dated 25 February 2019.
  - (ii) Appellant's grounds of appeal to the First-tier Tribunal.
  - (iii) Decision of FtT Judge J C Grant-Hutchison, promulgated on 8 October 2019.

- (iv) Appellant's grounds of appeal to the UT, stated in the application for permission to appeal dated 14 October 2019.
  - (v) Grant of permission by Designated FtT Judge Woodcraft, dated 28 January 2020.
  - (vi) Decision of Ut Judge Lindsley, promulgated on 1 July 2020, setting aside the decision of the FtT for error of law, and making directions with a view to remaking the decision.
  - (vii) Skeleton argument on remaking the decision from the appellant's representatives, attached to email dated 28 July 2020.
  - (viii) Email from respondent of 28 July 2020, indicating no skeleton argument to be served as "the case revolves around appellant's evidence about long residence and ... nothing requires further written elaboration".
  - (ix) Further directions of the UT dated 1 September 2020, with a view to disposing of the case by a remote hearing.
  - (x) Email from the appellant's representatives of 16 September 2020, indicating that no interpreter was required and no witnesses were to be called.
2. I conducted the hearing from George House. Representatives attended remotely. Mr Farrell connected by audio only. No members of the public attended, either in person or remotely. The technology enabled an effective hearing.
  3. Mr Farrell relied upon his written submissions.
  4. It emerged that Mr Whitwell had not been provided with all the elements of the case to date, and had not known that the hearing was for remaking the decision. He applied for an adjournment, but I did not find any good reason to grant one. He relied on the refusal letter, and pointed to shortcomings in the leasing documents, gaps in the payslips, and the acknowledgment that none of the witnesses could speak to the appellant having been here throughout the period of 20 years. (That is probably all the SSHD could have said, if there had been an adjournment.)
  5. I indicated that the appeal would be allowed.
  6. Although set aside, the FtT's decision may be used as a starting point in respect of its positive findings on the evidence for the appellant. I have no reason to depart from those. He has been here since a date just over 20 years ago. The question becomes whether it is more likely than not that he has been here continuously. The lease documents are scrappy and inconsistent, which might reflect that they are fabrications, or might arise from legal forms being used without professional input, which is common enough. Some of the payslips are similarly scrappy. There are gaps in the pay record and in the leasing record, but that is hardly surprising when someone who has lived here on an irregular basis is trying to document

himself for a long time back. It is of course possible that the appellant has been in and out of the UK by irregular means.

7. The search is not for anything near to a certain record of the entire period, which is the error into which the FtT fell.
8. Drawing all the evidence together, I conclude from it the appellant has been in the UK not only for substantial parts of the 20 year period but, more likely than not, for all of it.
9. The appeal, as first brought to the FtT, is allowed.
10. No anonymity direction has been requested or made.



4 November 2020  
UT Judge Macleman

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#### 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.