



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal no: IA 27555-12

THE IMMIGRATION ACTS

At **Field House**
on **06.08.2013**

Decision signed: **06.08.2013**
sent out: **06.08.2013**

Before:

Upper Tribunal Judge
John FREEMAN

Between:

Yaminu SULEMANA

appellant

and

Secretary of State for the Home Department

respondent

Representation:

For the appellant: Mr Edward Akohene, solicitor, Afrifa & Partners
For the respondent: Mr Tony Melvin

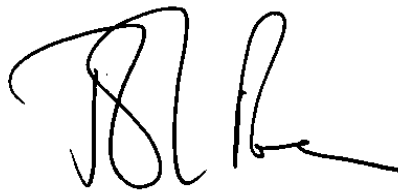
DETERMINATION AND REASONS

This is an appeal, by the appellant, against the decision of the First-tier Tribunal (Judge Robert Crawford), sitting without a hearing (the appellant not having asked for one) at Manchester on 30 May, to dismiss an EEA appeal by a citizen of Ghana, born 2 July 1973. The appellant had gone through a form of proxy marriage with the sponsor, a citizen of the Netherlands; the judge accepted that was valid, but did not accept that the sponsor was a 'qualified person', on the basis of the employment she said she now had with Heathfields Security Limited. He noted that she had produced only a single pay-slip for this, dated 21 December 2012.

2. Unfortunately, as the judge who granted permission in the First-tier Tribunal pointed out, three further pay-slips had been sent in on 17 April. The overlooking of such evidence, sent in without any covering letter or further information, is an inevitable risk for appellants in choosing the cheaper paper appeal option. However, it did amount to an error of law which requires the decision to be re-made: the only issue will be whether the sponsor remains a 'qualified person' on the basis of her employment at the date of disposal. On article 8, the judge was clearly right about the appellant and the sponsor being able to go and live in the Netherlands, if they wished.
3. I say 'disposal', because the appeal cannot be listed for an oral re-hearing, unless the appellant pays the fee for that. So that he can exercise his right to choose about that without any undue difficulty, I am directing the papers to be sent to Taylor House, his local hearing centre. If the appellant wants an oral hearing, then his solicitors must apply there, with the fee, by 3 September; otherwise there will be a fresh disposal on the papers.

Appeal allowed: first-tier decision set aside

Decision to be re-made by First-tier Tribunal, not Judge Crawford

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(a judge of the Upper Tribunal)