



**Upper Tribunal
(Immigration and Asylum Chamber)
IA/46537/2014**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

On 29th August 2017

**Decision & Reasons
Promulgated**

On 11th September 2017

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

**MR PATRICK ANKAMA ARTHUR-BADOO
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No Representative

For the Respondent: Ms Z Ahmad, Home Office Presenting Officer

DECISION AND REASONS

1. This is a resumed hearing in relation to Mr Arthur-Badoo. I originally heard this case on 20th June for the error of law Decision and I issued an error of law Decision on 23rd June. In that Decision I upheld the First-tier Tribunal's finding that Mr Arthur-Badoo was not in fact divorced from his EEA national spouse. His original appeal was in relation to the revocation of his residence card. It had been revoked on the basis that he was divorced. The First-tier Tribunal found he was not divorced but then went on to find that he was not entitled to a residence card. I found that to be an error of law in that it was not a matter raised by the Secretary of State nor dealt with at the hearing.

2. Having set aside the First-tier Tribunal's Decision and preserving the finding about the divorce the question then was on a pragmatic level whether he was in fact entitled to a residence card. If I had not dealt with that then it would simply have been refused again by the Secretary of State. I therefore preserved the finding and adjourned the matter for a resumed hearing when I would decide whether or not he was entitled to a residence card.
3. The matter then came before me on Friday 25th August and on that occasion the Appellant said that his wife, from whom he was estranged but not divorced, had a permanent residence card and that that had been sent to the Secretary of State with his original application for his residence card. The Presenting Officer on 25th August was unable to confirm that and so it was agreed that there would be a short adjournment while that was checked. I received an email from that Presenting Officer confirming that he had made checks and the Appellant's wife was indeed issued with a permanent residence card on 22nd November 2012. The Presenting Officer had accepted that if his wife had indeed been given permanent residence the Appellant was entitled to a residence card.
4. The Appellant still being married to his wife he is therefore entitled under the EEA Regulations to reside in the UK as the family member of an EEA national and for that reason his appeal is allowed.

Notice of Decision

The appeal to the Upper Tribunal is allowed such that the Appellant's appeal against the revocation of his residence card succeeds.

No anonymity direction is made.

Signed

Date 8th September 2017

Upper Tribunal Judge Martin

TO THE RESPONDENT **FEE AWARD**

As I have allowed the appeal and because a fee has been paid or is payable, I have considered making a fee award and have decided to make no fee award for the following reason. The Secretary of State acted properly on information she received in revoking the residence card. It was only after appeal and evidence adduced that the appeal that the decision proved to be unjustified.

Signed

Date 8th September 2017

Upper Tribunal Judge Martin