



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: EA/01261/2017

THE IMMIGRATION ACTS

Heard at Liverpool

**Decision & Reasons
Promulgated
On 05 April 2018**

On 15 March 2018

Before

**DR H H STOREY
JUDGE OF THE UPPER TRIBUNAL**

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MR SARFARAJ MUSABHAI BHOCHAKA
(ANONYMITY DIRECTION NOT MADE)**

Respondent

Representation:

For the Appellant: Mr G Harrison, Home Office Presenting Officer

For the Respondent: Mr P Thornhill, Thornhills Solicitors

DECISION AND REASONS

1. The appellant (hereafter the Secretary of State or SSHD) has permission to challenge the decision of the First-tier Tribunal sent on 25 May 2017 allowing the appeal of the respondent (hereafter the claimant) against the decision of the SSHD refusing him a residence card on the basis of a retained right of residence.
2. The sole ground of appeal is that the judge wrongly concluded that the claimant met the requirement of Regulation 10(6) of the EEA Regulations

because there was no evidence before the judge of him being in employment beyond April 2015.

3. It is unnecessary for me to go into any detail as regards this appeal because in the light of further documentation submitted by the claimant at the hearing before me, Mr Harrison conceded the SSHD's grounds could not succeed. The judge had decided the appeal on the papers and so the SSHD was not sighted as to the full documentation that was before the judge. Having reviewed the file, it is clear that there was solid documentary evidence of the claimant's continued employment with Stateside Foods Ltd up to April 2017. Since the judge decided the appeal in May 2017 it is clearly more than probable, in view of the claimant's employment history, that he was exercising treaty rights at the date of hearing. (That has now been confirmed in any event by further documentary evidence, produced by Mr Thornhill before me). Accordingly, I conclude that the FtT Judge did not err in law and his decision to allow the appeal must stand.

4. No anonymity direction is made.

Signed:

Date: 30 March 2018

A handwritten signature in black ink that reads "H H Storey". The letters are cursive and connected.

Dr H H Storey
Judge of the Upper Tribunal