



**Upper Tribunal
(Immigration and Asylum Chamber)
HU/09766/2017**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Field House
On 5 September 2018**

**Decision & Reasons Promulgated
On 14 January 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE JORDAN

Between

**MISS SHULI RIAN
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance

For the Respondent: Mr T. Wilding, Home Office Presenting Officer

DECISION AND REASONS

1. This is the appeal of Miss Shuli Rian, sometimes referred to as Tian, HU/09766/2014. The appellant is a citizen of China who was born on 22 February 1994 and had applied for indefinite leave to remain in the United Kingdom on the basis of long residence. It was refused by the Secretary of State and came before First-tier Tribunal Judge Caskie on 10 October 2017.
2. By a determination promulgated on 24 November 2017 the judge determined that the appellant did not qualify under the Rules. The reason for doing so is that there was material before the judge that the appellant had been out of the country for a period of 672 days. This was in excess

of the concession that is made that, for long residence purposes, an individual may be absent for a shorter period. In this case the shorter period was 540 days in all.

3. The Secretary of State in her refusal letter dated 28 August 2017 made the assertion that the stamps in her passport, airline passenger information checks, had confirmed that the appellant had been absent from the United Kingdom for at least 672 days in the qualifying ten year period and it was on that basis that the judge determined the appeal. The judge said in paragraph 10:

“In her grounds of appeal, the appellant also does not appear to dispute the Secretary of State’s conclusion that she has been out of the United Kingdom for 672 days. I am quite sure that there are different ways of calculating how many days amount to 18 months, but it does not appear to me that any calculation method would indicate the absences of 672 days (effectively two years) amounts to less than 18 months.”

That conclusion was properly open to the judge.

4. The hearing was conducted at North Shields and the appellant was not present nor was she represented, nor was the respondent present or represented, consequently the judge had to do as best as he could on the available material.
5. The grounds of appeal to the Tribunal do not dispute this crucial finding. What is said at paragraph (c) of the grounds is;

The judge made the decision that I do not have continuous residence in the United Kingdom for a period of ten years calculated in accordance with the Immigration Rule 276A...and my appeal was dismissed.

There are no other grounds for saying why the decision of the judge was wrong.

6. The appellant has not appeared before me to argue that the calculation of the Secretary of State was incorrect. It may be that she left the United Kingdom in June 2018. Be that as it may, she has not come herself before the Tribunal nor is she represented in order to argue her appeal. In those circumstances, I find that the First-tier Tribunal Judge made no material error of law and the determination of the appellant’s appeal shall stand.

DECISION

The First-tier Tribunal Judge made no error of law and his determination of the appellant’s appeal shall stand.

ANDREW JORDAN
DEPUTY JUDGE OF THE UPPER TRIBUNAL

DATE:
29 December 2018