



Tribunals Service
Asylum Support Tribunal

Asylum Support Tribunal
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Appeal Number : AST/07/12/16674
NASS Ref. : 06/07/01197/002
Appellant's Ref. :

IMMIGRATION AND ASYLUM ACT 1999
ASYLUM SUPPORT APPEALS (PROCEDURE) RULES 2000

Adjudicator	Ms Sally Verity Smith
Appellant	BD
Respondent	Secretary of State

REASONS STATEMENT

1. This Reasons Statement is made in accordance with Rule 13 of the Asylum Support Appeals (Procedure) Rules 2000 ('the Rules') and gives reasons for the Adjudication given on Thursday the 20th day of December 2007 to the effect that I have no jurisdiction to hear this appeal.
2. The appellant, a citizen of Romania born on 29 August 1969, appeals against the decision of the Secretary of State who on 27 November 2007 decided to refuse support to the appellant on the grounds that he did not satisfy Regulation 3 of the Immigration and Asylum (Provision of Accommodation to Failed Asylum Seekers) Regulations 2005.
3. In his notice of appeal, the appellant requested an oral hearing. At the hearing before me, the appellant gave his evidence in Romanian with the assistance of court interpreter, Ms Dinu. The appellant was represented by Ms Hickey of the Asylum Support Appeals Project. The respondent was represented by Mr Hatton.
4. As a preliminary issue, the jurisdiction of the AST to hear this appeal was raised.
5. Schedule 3 of the Nationality, Immigration and Asylum Act 2002 ("the 2002 Act") lists the persons who shall not be eligible for support or assistance under a variety of provisions including the 1999 Act if he has a nationality of an European Economic Area ("EEA") state other than the United Kingdom or is a dependent of a person who has a nationality of an EEA state other than the United Kingdom.
6. Section 103 of the 1999 Act states:

- (1) If, on an application for support under section 95, the Secretary of State decides that the applicant does not qualify for support under that section, the applicant may appeal to an adjudicator.
 - (2) If the Secretary of State decides to stop providing support for a person under section 95 before that support would otherwise have come to an end, that person may appeal to an adjudicator.
7. Section 10 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 ("the 2004 Act") states:
- (3) in Section 103 of the Immigration and Asylum Act 1999 ...
 - (a) after subsection (2) insert –
 - “(2A) If the Secretary of State decides not to provide accommodation for a person under section 4, or not to continue to provide accommodation for a person under section 4, the person may appeal to an adjudicator”,
 - and
 - (b) in subsections (6) and (7) for “section 95” substitute “section 4 or 95”.
8. Section 9 of the 2004 Act states:
- (3) No appeal may be brought under section 103 of the Immigration and Asylum Act 1999 (asylum support appeal) against a decision –
 - (a) that by virtue of a provision under Schedule 3 to the Nationality, Immigration and Asylum Act 2002 (c. 41) other than paragraph 7A a person is not qualified to receive support, or
 - (b) on the grounds of the application for a provision of that Schedule under other than paragraph 7A, to stop providing support to a person.
9. The respondent’s Policy Bulletin 76 in relation to asylum support applications from nationals of an EEA state states at paragraph 6 that Section 9(3) of the 2004 Act provides that there is no right of appeal to the AST against a decision to refuse or stop providing support to a person who is a national of an EEA state.
10. It is undisputed by either party to this appeal that the appellant is a Romanian and that Romania is an EEA state.
11. I have considered the jurisdiction of the AST to consider this appeal. I have applied Section 9(3) of the 2004 Act and on the totality of the evidence before me, considered carefully on a balance of probabilities, I am satisfied that I have no jurisdiction to hear this appeal.

Signed Date

Asylum Support Adjudicator