



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: EA/07242/2017

THE IMMIGRATION ACTS

Heard at Bradford  
On 14<sup>th</sup> February 2018

Decision & Reasons Promulgated  
On 20<sup>th</sup> February 2018

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

MR MAHMOUD FATOUH ABDALLA EID  
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms R Frantzis (instructed by Susan Croft)

For the Respondent: Miss R Petterson (Senior Home Office Presenting Officer)

DECISION AND REASONS

1. This is an appeal to the Upper Tribunal by the Appellant, with permission, in relation to a Decision and Reasons of Judge Herlihy, determined on the papers at the Appellant's request, on 9<sup>th</sup> November 2017. Judge Herlihy dismissed the appeal.
2. The Appellant is a citizen of Egypt who sought a residence card as the spouse of a British national who had been exercising treaty rights in Malta where he resided with her.
3. The Judge was not satisfied on the papers before her that the couple had in truth genuinely relocated to Malta and transferred the centre of their lives there.

4. The grounds argue that in determining the appeal the Judge failed to take into account evidence that was contained in the bundle which was material to her findings. In particular the Judge found no evidence that the couple had paid rent in Malta when there was such evidence in the bundle. Similarly the Judge said that there was no evidence of the couple's immigration history when such evidence was in the bundle (contained in their passports).
5. Ms Petterson conceded that there were material errors of law in the Decision and Reasons and that it should be set aside.

**Notice of Decision**

**The appeal to the Upper Tribunal is allowed to the extent that the Decision and Reasons is set aside and the appeal remitted to the First-tier Tribunal for a full rehearing on the issue of Internal Relocation by a Judge, other than Judge Herlihy.**

**The Appellant now wishes to have an oral hearing and so the file should be returned first to Arnhem House for the fee to be collected.**

**The remitted hearing should take place at Bradford and an Arabic (North African) interpreter will be required.**

No anonymity direction is made.

Signed

Date 14<sup>th</sup> February 2018

Upper Tribunal Judge Martin