



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

Appeal Number: HU/02740/2017

THE IMMIGRATION ACTS

**Heard at Field House
On 18 December 2017**

**Decision & Reasons Promulgated
On 12 January 2018**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**WAHIB ABI FARAJ
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

ENTRY CLEARANCE OFFICER - AMMAN

Respondent

Representation:

For the Appellant: Mr Roberts, Cromwell Wilkes

For the Respondent: Mr Bramble, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, Wahib Abi Faraj, was born on 29 August 1968 and is a male citizen of Lebanon. On 29 January 2017, the Entry Clearance Officer (ECO) Amman refused the appellant entry clearance to the United Kingdom for settlement in the United Kingdom with his wife. The appellant appealed to the First-tier Tribunal (Judge Kainth) which, in a decision promulgated on 18 September 2017, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. At the Upper Tribunal hearing on 18 December 2017, Mr Bramble, who appeared for the Entry Clearance Officer, did not seek to support the First-

tier Tribunal decision. The decision itself is confused and its outcome, in the light of the findings made by the judge, arguably unintelligible. At [27], the judge wrote:

“Before I consider proportionality itself, I must examine whether there is justification for the decision appealed. I begin by considering this in the light of the public interest considerations set out in Section 117A and Section 117B of the 2002 Act as amended. The maintenance of effective immigration control is in the public interest and therefore refusing entry to a person who meets the requirements of the Immigration Rules have provided no ground to suggest that Article 8 should be invoked in their favour, is sufficient reason and justification for exclusion.”

3. I have struggled to understand the meaning of that paragraph. Further, it is not clear why the judge refrained from allowing this spouse settlement application appeal on Article 8 ECHR grounds having found unequivocally at [32] that “the appellant meets the requirements under the Immigration Rules as a partner”.
4. In the circumstances, and in the light of the helpful submissions of both representatives, I have set aside the First-tier Tribunal decision and have remade the decision. The appellant’s appeal against the decision of the Entry Clearance Officer is allowed on human rights grounds (Article 8 ECHR).

Notice of Decision

5. **The decision of the First-tier Tribunal which was promulgated on 18 September 2017 is set aside. I have remade the decision. The appellant’s appeal against the decision of the Entry Clearance Officer dated 29 January 2017 is allowed on human rights grounds (Article 8 ECHR).**
6. No anonymity direction is made.

Signed

Date 3 January 2018

Upper Tribunal Judge Lane