



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: HU/08000/2016

THE IMMIGRATION ACTS

Heard at Birmingham CJC
On 19 October 2018

Decision & Reasons Promulgated
On 08 November 2018

Before

UPPER TRIBUNAL JUDGE ALLEN

Between

MR SHAKIL AHMAD
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr T Mahmood of Zenith Solicitors
For the Respondent: Ms H Aboni

DECISION AND REASONS

1. This is the appeal of Mr Shakil Ahmad against a decision of the Secretary of State to deport him from the United Kingdom. He was in fact deported and there was an appeal against the decision which was adjourned twice and ultimately came before a Judge in Birmingham in September 2017. There was no attendance by or on behalf of Mr Ahmad, perhaps not surprisingly on his behalf as he was out of the country and the judge in his absence including the absence of a witness statement found he had not discharged the burden on him and dismissed the appeal.

2. He sought permission to appeal on the basis that he was not aware of the hearing date, he would have sought representation had he been aware of the hearing date and Article 8 had not been properly considered by the judge. There is a lengthy grant of permission which notes among other things that he had provided an address in an application for an adjournment and in the grounds of appeal the file was not amended to include that address and the notice of hearing was sent to a different address, and as a consequence there may have been procedural unfairness and permission was granted on that basis.
3. The Secretary of State in a response under Rule 24 has accepted that there had been administrative errors which led to disadvantage to the appellant and proposed, and I think it is common ground, that the appropriate disposal of the appeal is for it to be remitted to the First-tier Tribunal for a hearing since he has not had the benefit of any hearing at all so it would be quite inappropriate for it to be heard in the Upper Tribunal and therefore depriving him of his opportunity in the First-tier. I note that helpfully at paragraph 3 of the response it is said that the technology it seems is in place for a hearing to take place so he can benefit from that also.

Notice of Decision

The outcome therefore is that the judge's decision is set aside and there will be a full hearing in the First-tier Tribunal in Birmingham.

No anonymity direction is made.



Signed

Date : 31 October 2018

Upper Tribunal Judge Allen