



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

Appeal Number: IA/23778/2013

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 19 June 2014**

**Determination**

**Promulgated**

**On 30 June 2014**

**Before**

**THE HONOURABLE MRS JUSTICE SIMLER  
DEPUTY UPPER TRIBUNAL JUDGE J F W PHILLIPS**

**Between**

**MR SYED HUSSAIN SHAH**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr R Claire, Counsel

For the Respondent: Mr P Duffy, Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. In a determination promulgated on 31 March 2014 First-tier Tribunal Judge Mayall dismissed an appeal against refusal of long residence status in circumstances where the appellant had arrived illegally claiming long residence and the judge found that that was not made out and that no breach of Article 8 arose either.

2. The application to appeal, albeit made out of time, was admitted and was allowed in circumstances where on the day of the hearing 27 February 2014 the appellant had arrived at the hearing centre but was taken ill and went to hospital. An application for an adjournment was made to the judge but in the absence of medical evidence the judge refused the application.
3. The grounds of permission to appeal was made on 12 May 2014 and today Mr Duffy on behalf of the Secretary of State has realistically conceded that the appeal should be allowed and that the decision should be set aside on that basis.
4. We consider that that is a concession that is correctly and realistically made and we are grateful to Mr Duffy in those circumstances. Accordingly we allow the appeal and set aside the decision of the First-tier Tribunal in this case.
5. We remit the matter to the First-tier Tribunal for the appeal to be considered afresh and we direct that an interpreter should be available at that hearing because the appellant has never had the opportunity to give evidence and would need to do so.

Signed

Date

Mrs Justice Simler