



**Upper Tribunal
(Immigration and Asylum Chamber)
IA/41579/2014**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

On 4th May 2016

**Decision & Reasons
Promulgated
On 6th June 2016**

Before

Upper Tribunal Judge John FREEMAN

Between

TAHIRA YASMIN

appellant

and

Secretary of State for the Home Department

respondent

Representation:

For the appellant: Paul Turner (counsel, by direct access)

For the respondent: Mr K Norton

DECISION AND REASONS

1. This is an appeal against the decision of Judge Pathma Lingam, sitting at Taylor House on 7 September 2015, dismissing an appeal against refusal of entrepreneur leave. On 7 November 2014 the appeal had been acknowledged by the Tribunal, and it was noted that an oral hearing was required. There were some difficulties about payment of fees; but eventually on 2 February 2015 notice of hearing was given for 6 July.
2. On 6 July the judge's note records a failure to appear by the appellant; but nothing about the reasons. The appellant says the appeal had been adjourned, on production by her of a GP's letter, to a date to be fixed. It seems to have been put back before Judge Lingam for 7 September. Given the e-mail which she sent, complaining about having the wrong

papers in the file, to that London branch of the Tribunal on 29 July, her intention may have been to determine the appeal on the evidence before her, following the appellant's non-appearance on 6 July. However there is no material on the file to support that possibility, nor to contradict what the appellant says about the appeal having been adjourned at her request for another hearing.

3. The judge's record is headed "Heard at Taylor House on 7 September 2015": she relates that there was no appearance on behalf of either party, and says at paragraph 8

There was no show by the appellant at the hearing. There was no explanation of her absence or any reason given for the appeal not to proceed in the absence of the appellant. I am satisfied that the appellant was informed of the hearing and as there is sufficient evidence before me to determine the appeal I am satisfied that I can proceed with the appeal under rule 28 of the First-tier Rules.

4. If the judge had made it clear that she was making that decision following the non-appearance on 6 July, then it might have been another matter; but as things stand there is nothing to gainsay the appellant's account of events and the only possible outcome is that **the appeal is allowed, with a direction for a fresh hearing before another first-tier judge.**



(a judge of the Upper Tribunal)
13 May 2016