



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

**Case No: UI-2022-006014**  
**First-tier Tribunal No:**  
**PA/51219/2022**  
**IA/03530/2022**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On the 30 April 2023**

**Before**

**UPPER TRIBUNAL JUDGE KEBEDE**

**Between**

**Faysel Mahamed Cabdilahi**  
**(no anonymity order made)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr A Miyan, instructed by Wimbledon Solicitors  
For the Respondent: Mr E Tufan, Senior Home Office Presenting Officer

**Heard at Field House on 21 April 2023**

**DECISION AND REASONS**

1. The appellant appeals, with permission, against the decision of the First-tier Tribunal dismissing his appeal against the respondent's decision to refuse his asylum and human rights claim.
2. The appellant claims to be a national of Ethiopia from the Ogaden tribe, but is believed by the respondent to be a Somali national. He was born on 12 January 1991. He arrived in the UK in July 2017 and claimed asylum on 21 July 2017 when detained at Gatwick Airport trying to leave the UK for Canada. The appellant's claim was refused by the respondent on 18 March 2022 and he appealed against that decision.
3. The appellant's appeal came before First-tier Tribunal Judge Chana on 7 October 2022. There was no appearance by, or on behalf of, the appellant at the hearing. The judge considered that the notice of hearing had been properly served and she proceeded to hear the appeal in the appellant's absence. She dismissed the appeal in a decision promulgated on 10 October 2022.

4. The appellant sought permission to appeal to the Upper Tribunal on the grounds that neither he nor his representatives had received a notice of hearing or any correspondence about the hearing and that the judge had erred by proceeding to hear the appeal in his absence.

5. Permission was refused in the First-tier Tribunal but was subsequently granted in the Upper Tribunal upon a renewed application.

6. The respondent, in her Rule 24 response, opposed the appeal. The appellant's representatives provided a response to the Rule 24, confirming again that neither they nor the appellant had received notice of the hearing and explaining that they had had problems with their email handling and security.

7. At the hearing, Mr Tufan accepted that the decision of Judge Chana should be set aside in the interests of fairness, since it was not the appellant's fault that he had not been in attendance at the hearing. It was agreed by all parties that the most appropriate course, in the circumstances, would be for the case to be remitted to the First-tier Tribunal for a *de novo* hearing.

### **Notice of Decision**

8. The making of the decision of the First-tier Tribunal involved the making of an error on a point of law. The decision is set aside. The appeal is remitted to the First-tier Tribunal to be dealt with afresh pursuant to section 12(2)(b)(i) of the Tribunals, Courts and Enforcement Act 2007 and Practice Statement 7.2(a), before any judge aside from Judge Chana.

Signed: S Kebede  
Upper Tribunal Judge Kebede

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

21 April 2023