



**UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER**

THE IMMIGRATION ACTS

Heard at: Sheldon Court Birmingham
Promulgated
On: 2 May 2014

Decision
On: 6 May 2014

Before

Upper Tribunal Judge Pitt

Between

Mr Khalid Bashir

and

Entry Clearance Officer - Abu Dhabi

Appellant

Respondent

DECISION

1. The appellant is a national of Pakistan. His date of birth is 1 January 1971.
2. The appellant applied for a visit visa to come to see his maternal first cousin and other relatives in the UK. That application was refused on 18 June 2012. The appellant appealed and his appeal was refused by Immigration Judge Clarke in a determination promulgated on 10 December 2013.
3. The First-tier Tribunal determination at [3] notes that no-one attended for the appellant. It states that this was so notwithstanding good service on the appellant. I cannot find a notice of hearing sent to the appellant concerning the hearing on 27 November 2013, only one dated 8 August 2013 addressed to the sponsor, Mrs Safina


Manize and the Home Office Presenting Unit. Judge Clarke also stated at [3] that no adjournment request had been made and proceeded to determine the appeal, dismissing it.

4. One of the reasons given for dismissing the appeal is at [12], to the effect that found Judge Clarke found the sponsor's "absence (without any explanation) itself casts doubt on the integrity of the Appellant's application."
5. The ground of appeal is that the sponsor did not get the notice of hearing dated 8 August 2013 so did not attend and that the comment at [12] shows that her absence was material to the decision.
6. I accepted for a number of reasons that Mrs Manize did not receive the notice of hearing dated 8 August 2013. Firstly, the appellant paid for an oral hearing and wanted Mrs Manize, to attend the hearing to give evidence. The grounds of appeal to the First-tier Tribunal state that to be so in terms on page 6 of 7. Secondly, the hearing was initially listed for 9 August 2013. The Tribunal file shows that on 6 August 2013 Mrs Manize wrote to the Tribunal asking for an adjournment as there had been a death in the family. That handwritten letter is stamped as received by the Tribunal on 8 August 2013. It indicated to me her active interest in attending the appeal. Thirdly, she attended the hearing before me and gave entirely straightforward and clear evidence as to not having received the notice of hearing dated 8 August 2013 and I found her to be credible in that regard.
7. I was satisfied that a procedural error occurred as Mrs Manize did not have notice of the hearing on 27 November 2013 and that the finding at [12] showed that this was material to the outcome of the appeal. If she had attended, it is possible the appeal would have been determined differently.
8. I found an error of law such that the determination of the First-tier Tribunal should be set aside. As the procedural error deprived the appellant of a fair hearing before the First-tier Tribunal it is remitted to the First-tier Tribunal now following paragraph 7.2 of Part 3 of the Senior President's Practice Statement dated 25 September 2012.
9. The appeal is now listed to be heard on **23 June 2014 at the Sheldon Court, Birmingham hearing centre**. The sponsor was informed of the hearing date and venue by me on 2 May 2014.

DECISION

10. The determination of the First-tier Tribunal contains an error on a point of law and is set aside.

11. The appeal is remitted to the First-tier Tribunal to be re-made.

Signed: 

Date: 2 May 2014

Upper Tribunal Judge Pitt