



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

Appeal Number: IA/27197/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 25th February 2015**

**Determination
Promulgated
On 31st March 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE BAIRD

Between

**MS XUEQIN WENG
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Adophy, Solicitor of Rana & Co Solicitors
For the Respondent: Ms A Everett, Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal by Ms Xueqin Weng, a citizen of China born 23rd February 1979. She appeals against the determination of First-tier Tribunal Judge K Henderson issued on 19th November 2014 dismissing her appeal against the decision of the Respondent made on 20th June 2014 to refuse leave to remain in the United Kingdom.
2. On 20th January 2015, having heard submissions a First-tier Tribunal Judge granted permission to appeal. She noted that the grounds assert that the Judge committed a material error of law because he wrongly declined to allow an adjournment. The Appellant and her representative had attended

the Tribunal at Richmond on 5th November 2014 as they had been advised by a Notice of Hearing issued on 6th August 2014. They were not aware that a letter had been issued by the administration altering the hearing venue to Hatton Cross. An adjournment was requested because Counsel was unable to travel to Hatton Cross as he was also representing another client at Richmond and it not possible to travel between both courts in one day. The Appellant argued that they had not received the amended notice and there was no proof of delivery.

3. The Judge who granted permission noted that there was no evidence in the court file that the amended Notice of Hearing had been sent or received or that the Appellant or her representatives had received any such notice. The fact that they had turned up for the hearing at the first mentioned venue indicated that they were actively involved in the appeal and would have had no reason to attend a different court had they been advised of the change of venue. She found that it was arguable that the Judge did not act in the interests of justice which required that the Appellant be given proper opportunity to participate in her appeal. The position of the Respondent as per the Rule 24 notice is that he does not oppose the Appellant's application for permission to appeal and invited the Tribunal to remit the matter back to the First-tier Tribunal for a fresh hearing.

Notice of Decision

In the interests of fairness and given that the Respondent has no objection I set aside the decision of the First-tier Tribunal due to procedural unfairness and remit the appeal to the First-tier Tribunal to be heard anew.

Signed

Date: 30th March 2015

N A Baird
Deputy Upper Tribunal Judge Baird