



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

Appeal number: IA/22470/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 23 February 2016**

**Decision sent to parties on
On 24 February 2016**

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

HAMDI FRIH

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**NOTICE OF WITHDRAWAL OR ABANDONMENT
pursuant to paragraph 17A of
The Tribunal Procedure (Upper Tribunal) Rules 2008
(as amended)**

1. The appellant, a citizen of Tunisia, appealed with permission to the Upper Tribunal against the First-tier Tribunal determination dismissing his appeal against the respondent's refusal to grant him limited leave to remain in the United Kingdom as a parent.
2. The provisions for treating an appeal as abandoned or finally determined are set out in section 104 of the Nationality, Immigration and Asylum Act 2002 (as amended). So far as relevant to this appeal, section 104 (4A)-(4C) provide a mechanism for automatic abandonment of an appeal, subject to a mechanism for the appellant to

indicate that he wishes, nevertheless, to pursue the appeal before the Upper Tribunal:

“104 Pending appeal

...

(4A) An appeal under section 82(1) brought by a person while he is in the United Kingdom shall be treated as abandoned if the appellant is granted leave to enter or remain in the United Kingdom (subject to subsections (4B) and (4C)).

(4B) Subsection (4A) shall not apply to an appeal in so far as it is brought on the ground relating to the Refugee Convention specified in section 84(1)(g) where the appellant—

- (a) is granted leave to enter or remain in the United Kingdom for a period exceeding 12 months, and
- (b) gives notice, in accordance with any relevant procedural rules (which may include provision about timing), that he wishes to pursue the appeal in so far as it is brought on that ground.”

3. Paragraph 17A(1) of the Tribunal Procedure (Upper Tribunal) Rules 2008 requires a party to an asylum or immigration case to notify the Upper Tribunal where the appellant has been granted leave to remain, and in certain other circumstances not relevant to this appeal. Paragraph 17A(2) then requires the Upper Tribunal to send to the parties a notice that the appeal is being treated as abandoned, unless the appellant sends to the Upper Tribunal within 30 days of the grant of leave to remain a notice stating that he wishes to pursue his appeal.
4. On 16 December 2016, the respondent granted this appellant a period of 30 months’ limited leave to remain on the 5-year Parent Route under paragraph D-LTRPT1.2 of Appendix FM of the Immigration Rules HC395 (as amended).
5. The appellant failed to notify the Upper Tribunal of that grant of leave. Today, with the hearing listed for tomorrow in Bradford, Reiss Solicitors wrote to the Upper Tribunal querying why a hearing had been listed, disclosing the grant of leave, and indicating that they would not be attending as they were without instructions. I have seen a copy of the grant of leave.
6. No paragraph 17A(2) notice has been received.
- 7. The Upper Tribunal therefore treats this appeal as abandoned.**

Date: 20 December 2016

**Signed:
Gleeson**

Judith AJC Gleeson
Upper Tribunal Judge

