



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

Appeal Number: IA081332014

THE IMMIGRATION ACTS

**Heard at Field House
On 24 April 2017**

**Decision Promulgated
On 5 May 2017**

Before

**Deputy Upper Tribunal Judge Pickup
Between**

**KAMRUL HASSAN
[No anonymity direction made]**

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the appellant: In person

For the respondent: Mr P Armstrong, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is the appellant's appeal against the decision of First-tier Tribunal Judge Walker promulgated 5.5.16, dismissing on all grounds his appeal against the decisions of the Secretary of State, dated 22.1.14 and 22.3.16, to refuse his application made for LTR.
2. The Judge heard the appeal on 26.4.16.
3. First-tier Tribunal Judge Shimmin refused permission to appeal, but when the application was renewed to the Upper Tribunal, Upper Tribunal Judge McWilliam granted permission to appeal on 8.3.17.

4. Thus the matter came before me on 24.4.17 as an appeal in the Upper Tribunal.

Error of Law

5. For the reasons summarised below, I found no error of law in the making of the decision of the First-tier Tribunal such as to require the decision of Judge Walker to be set aside.
6. The appellant was originally a dependent on his wife's appeal (IA/08126/2014). He had separated from his wife in September 2014 and was the subject of an order from the Magistrates Court, dated 23.10.14, restraining him from contacting her. The original refusal decision was dated 22.1.14. However, when the Home Office learnt that he had separated from his wife, a separate decision was made, dated 22.3.16, refusing his LTR claim. He states that this was sent to his solicitors, but the letter itself has his address of 30 [] Close. He was living at a separate address and his grounds admit that he kept changing addresses. He claims he never received this decision.
7. The appellant asserts that he was not notified of the date of the appeal hearing before Judge Walker. The grounds claim that his representatives stopped trading without notifying him of that fact or the date of the appeal hearing. When he telephoned the Tribunal to enquire himself about the progress of the appeal in August 2016, he was informed that it had already been dismissed in his absence. He did not receive a copy of the appeal decision until 2.9.16. He claims that as he was not heard, he is the victim of injustice.
8. In granting permission to appeal, Judge McWilliam found it arguable that he was not sent the second decision letter from the Secretary of State, dated 22.3.16, following the separation from his spouse and the restraining order. However, she also stated, "Whilst I appreciate that the appellant is unrepresented, it is expected that he is able to inform the Tribunal of the date his solicitors ceased to trade and the date when he moved out of 30 [] Close. It is also expected that the respondent informs the Tribunal about the appellant's wife's appeal."
9. The appellant has not provided any evidence that his former solicitors ceased trading. When I pursued this issue, he admitted he doesn't know if they have ceased trading or not. He said that he telephoned them on one occasion and no one answered the phone. He did not go round to check, checked online whether they were still trading, or made enquiries of the Law Society, and didn't even write to them. He has simply speculated that they had ceased trading. That is entirely unsatisfactory, particularly in light of Judge McWilliam's comments in the grant of permission.
10. The appellant told me that he moved from 30 [] Close in January 2015. He also admitted that he had done this without notifying his solicitors, so that if they had written to him, he would not have received the

correspondence.

11. In his submissions, Mr Armstrong pointed out that it was the duty of the appellant to keep in contact with his solicitors and the Tribunal, and to notify them of any change of address: this he had failed to do.
12. The appellant's attitude to the proceedings appears to have been that as he was a dependant on his wife's claim it was down to her to make the running on the appeal. He was unable to tell me anything about his claim or provide any further justification for me to set aside the decision of Judge Walker.
13. In the circumstances, I find that there was no unfairness or injustice in the First-tier Tribunal Judge's decision to decide the appeal in the appellant's absence. It is hardly surprising that he did not receive notice of the hearing, given that he had moved from the only address given for correspondence over a year earlier, without notifying either the Tribunal or his solicitors. I find that it was entirely his fault that he was not present. In the circumstances I can find no error of law in the decision of the Tribunal.

Conclusions:

14. For the reasons set out herein, I find that the making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law such that the decision should be set aside.

I do not set aside the decision.

The decision of the First-tier Tribunal stands and the appeal remains dismissed on all grounds.



Signed

Deputy Upper Tribunal Judge Pickup

Dated

Deputy Upper Tribunal Judge Pickup

Anonymity

I have considered whether any parties require the protection of any anonymity direction. No submissions were made on the issue. The First-tier Tribunal did not make an order.

Given the circumstances, I make no anonymity order.

Fee Award

Note: this is not part of the determination.

I make no fee award.

Reasons: The appeal has been dismissed

A handwritten signature in black ink, appearing to read 'Pickup', written in a cursive style.

Signed

Deputy Upper Tribunal Judge Pickup

Dated