



**Upper Tribunal
(Immigration and Asylum Chamber)
HU/04399/2015**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

Decision & Reasons

On 8 January 2018

Promulgated

On 12 February 2018

Before

**UPPER TRIBUNAL JUDGE PITT
DEPUTY UPPER TRIBUNAL JUDGE PARKES**

Between

**MRS FLORENCE EBUN BELLO
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No representation

For the Respondent: Ms N Willocks-Briscoe, Senior Home Office Presenting Officer

DECISION AND REASONS


1. This is an appeal against the decision of First-tier Tribunal Judge Mailer promulgated on 3 April 2017 which dismissed the appellant's appeal against the respondent's decision refusing her entry clearance as a returning resident.
2. It is undisputed that the appellant was granted indefinite leave to remain on 3 November 2002. Her evidence also does not dispute that she

returned to Nigeria for extended periods thereafter to care for her husband who was unwell. Sadly, he died in January 2015. The appellant then applied for entry clearance as a returning resident.

3. The respondent's decision refusing entry clearance is dated 15 July 2015. The appellant lodged her appeal and in those appeal papers gave an address of []. The Tribunal also issued a notice of a pending appeal to her at that address on 29 September 2015.
4. A notice of hearing was issued by the First-tier Tribunal on 20 October 2016 again to []. Nothing in the materials indicates that by that time the Tribunal had been informed of a change of address. By the time of the hearing in front of Judge Mailer on 13 March 2017 there was again nothing indicating that the appellant had not been given proper notice of the hearing.
5. Judge Mailer found himself in a position where no-one attended the hearing for the appellant and the respondent also did not provide representation. No explanation for that state of affairs was before him. He proceeded to determine the case on the basis of the evidence before him on the papers. He refused the appeal.
6. The decision of First-tier Tribunal Judge Mailer was issued to the appellant on 3 April 2017. It was sent to the [] address. It undoubtedly arrived because the appellant appealed against it in time.
7. The appeal forms lodging that appeal to the First-tier Tribunal, however, gave a different address for the appellant's representative, seemingly her daughter. That address was []. The Tribunal has used that address since that time. The grant of permission to appeal dated 11 October 2017 was sent to the [] address.
8. The grounds argue that there was procedural unfairness as the appellant did not receive notice of the First-tier Tribunal hearing or the respondent's bundle. The grounds maintained that when a telephone call was made on 3 March 2017 chasing an appeal date, the appellant's representative, her daughter, was told that the appeal had been heard and that a decision would follow in 4 days. The grounds also argue that the First-tier Tribunal gave inadequate reasons.
9. On the day of the hearing before us there was no-one attended for the appellant. The Tribunal telephoned the telephone number given consistently in the papers for the sponsor in the UK but there was no reply. On that basis we considered that we should proceed to hear the appeal, nothing indicating other than that proper notice of the hearing had been provided to the address given for representation in the appeal forms.
10. The material before us did not support the appellant's procedural unfairness arguments. The notice of the hearing in the First-tier Tribunal was sent to the address provided for service. The decision of the First-tier Tribunal was later received at that address. It is difficult to accept that the account of the information given by the Tribunal in a telephone call on 3

March 2017 as the appeal was not heard until 13 March 2017. This ground is supported only by bare statements in the grounds.

11. It is our view that the materials here do not show good grounds for accepting that the appellant did not have proper notice of the hearing before the First-tier Tribunal. We do not find that a procedural error occurred.
12. It is not arguable that the First-tier Tribunal decision failed to provide adequate reasons. He addressed at [20] the correct question from paragraph 19 of the Immigration Rules. The appellant had not lived in the UK for most of her life; see [21] and [22]. He was clearly aware of the history; see [13]-[17]. The Article 8 claim was considered in [24]-[26] and the First-tier Tribunal made a rational finding that nothing showed family life with anyone in the UK or a private life where she had been resident in Nigeria for many years. The grounds fail to identify evidence or factors capable of showing exceptional circumstances such that the judge was in error.
13. For these reasons we do not find that the grounds had merit.

Signed: 

Date: 1 February 2018

Upper Tribunal Judge Pitt