



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

Appeal Number: EA/04326/2017

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 16<sup>th</sup> January 2019**

**Decision & Reasons  
Promulgated  
On 4<sup>th</sup> February 2019**

**Before**

**Upper Tribunal Judge John FREEMAN**

**Between**

**Karim BOUMERDASSI**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the appellant: Mr F Junior

For the respondent: Mr Tom Wilding

**DECISION AND REASONS**

This is an appeal by a citizen of Nigeria. On 12 April 2014 he was refused a residence certificate as the husband of a Hungarian national. He filed notice of appeal against that decision on 26 April giving an address at [~] Stowford Road, Oxford, where he has remained throughout these proceedings. The first notice of hearing for Birmingham on 21 September was clearly received because it resulted in requests first for transfer to London which was refused and then for an adjournment, which was also refused.

2. There was a second request for an adjournment and on 19 September the appellant's solicitors withdrew for the time being; but they were not removed from the record, and a further notice of hearing was sent in October for February 2018. Unfortunately the hearing then had to be adjourned, and on 22 February a third notice of hearing was sent for 15 June, when the appellant failed to appear and Judge Parkes, having made inquiries with the solicitors and got no reply, went ahead with the case and decided it.
4. The only ground of appeal is that the appellant had not received that final notice of hearing, and nor had his solicitors. Mr Junior for the appellant was unable to cast any light on how the Tribunal got no answer to the phone call directed by Judge Parkes; but they at least had got no record of it. Curiously the Home Office do not seem to have the notice of hearing for 15 June on their file either, although this may not be conclusive.
5. Given the appellant's previous record in reacting to notices of hearing and Mr Junior's appearance for him today, I am satisfied his non-appearance on the last occasion may have been the result of an error in sending out that notice, and the result is that there will have to be a fresh hearing in the first-tier tribunal before a different judge. It will be a fresh hearing at Birmingham not before Judge Parkes.

**Appeal allowed:: decision set aside**

**Fresh hearing in the First-tier Tribunal at Birmingham, not before Judge Parkes**

A handwritten signature in black ink, consisting of stylized, overlapping letters that appear to be 'JLR' followed by a horizontal line.

(a judge of the Upper Tribunal)