



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: IA/00100/2018 (A)

THE IMMIGRATION ACTS

At a telephone case management hearing  
Via BTmeetme  
On 18 December 2020

Decision & Reasons Promulgated  
On 12 January 2021

Before

Upper Tribunal Judge Plimmer

Between

MUHAMMED HASEE ANWAR

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation

Appellant: None  
Respondent: Ms Isherwood

DECISION AND REASONS (A)

1. This is an appeal with a lengthy history. It is unnecessary to set this out in any detail here. Suffice to say that the appellant has sought to challenge a decision of the FTT not to adjourn a hearing that took place on 4 December 2018. In its decision sent on 25 January 2019, the FTT dismissed the appellant's appeal. The decision under appeal is not altogether clear from the FTT's decision. Since then the

appellant made an application for a residence card on 19 May 2019, which he was granted (due to expire on 23 July 2024).

2. In a decision dated 19 August 2020 I concluded that the appellant's appeal has been abandoned by statute, and notice was given to the appellant informing him that the appeal was being treated as abandoned. The appellant has not responded to that decision or the notice contained within it, and the time-limit for doing so has long passed – see s. 104(4A) of the Nationality, Immigration and Asylum Act 2002 and rule 17A of the Tribunal Procedure (Upper Tribunal) Rules 2008 ('the 2018 Rules').
3. In an email dated 3 September 2020 Mr Deller, on behalf of the respondent, suggested that as the appellant was granted a residence card pursuant to the EEA Regulations and not "leave to enter or remain", his appeal could not be treated as abandoned pursuant to s. 104(4A). Mr Deller was quite right to point this out – see [5] of MSU (S.104(4b) notices) Bangladesh [2019] UKUT 412 (IAC). I do not need to resolve this issue because I am satisfied that the appellant's appeal must be dismissed in any event.
4. The appellant was clearly told in the decision dated 19 August 2020 that he should contact the Tribunal within 14 days if he wished to pursue his appeal (notwithstanding the grant of a residence card) and he has not done so. He has been given notice of this hearing and not attended, without explanation.
5. In all the circumstances and bearing in mind the 2018 Rules, in particular the overriding objective, I am satisfied that the appellant has demonstrated no interest in pursuing his appeal and it can properly and fairly be determined on the papers. The reason the appellant has not prosecuted his own appeal is probably because he has already been granted the outcome he was seeking by bringing this appeal – lawful residence in the UK. Given the appellant's demonstrable lack of any interest in pursuing this appeal, he has not met the burden of proof on him and I dismiss his appeal.

Signed: *Ms M Plimmer*  
Upper Tribunal Judge Plimmer

Dated: 18 December 2020