



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

**Case No: UI-2022-001267**  
**First-tier Tribunal No:**  
**EA/10954/2021**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On the 24 March 2023**

**Before**

**UPPER TRIBUNAL JUDGE LANE**

**Between**

**TEHMINA CHUHDARY**

Appellant

**and**

**Entry Clearance Officer**

Respondent

**Representation:**

For the Appellant: Mr Khan

For the Respondent: Mr tan, Senior Presenting Officer

**Heard at Manchester Civil Justice Centre on 11 November 2022**

**DECISION AND REASONS**

1. The appellant is a female citizen of Pakistan. She applied to the Secretary of State under the EU Settlement Scheme for a family permit. By a decision dated 20 May 2021, the application was refused. She appealed to the First-tier Tribunal under Tribunal reference EA/10954/2021. She did not attend the First-tier Tribunal hearing at Manchester on 14 December 2021 nor did she file and serve any documentary evidence in support of her appeal within 42 days of receipt of as directed by the Acknowledgement of Notice of Appeal sent out by the Tribunal on 11 August 2021. The First-tier Tribunal proceeded in the absence of any representation for the appellant and dismissed her appeal. The appellant now appeals, with permission, to the Upper Tribunal. She asserts that neither she nor her representative received the notice of hearing.
2. At the initial hearing at Manchester on 11 November 2022, I directed that the representatives file at the Upper Tribunal and serve on the other party written submissions. I have received the submissions of both parties and now determine the appeal.

3. The procedural history is unusual. The same refusal of entry clearance by the Entry Clearance Officer has, on appeal, generated two separate First-tier Tribunal reference numbers - EA/11304/2021 and EA/10954/2021. It is not clear why this happened. Appeal EA/11304/2021 resulted in a hearing before First-tier Tribunal Judge Evans on 11 July 2021 which neither the representative nor the sponsor attended. The appeal was dismissed and permission to appeal that decision was not sought.
4. It is agreed by the parties that the appellant, through her solicitors, had been aware that a Tribunal file for appeal EA/10954/2021 had been created; the solicitors raised a query regarding the hearing date with the Tribunal, citing the reference EA/10954/2021 in their email. In the case of both appeals, the contact email address of the representative, Prestige Solicitors, was the same: [wj@prestigesolicitors.co.uk](mailto:wj@prestigesolicitors.co.uk). Mr Tan, for the Secretary of State, submits that the solicitors have never explained why service at that email address should not have reached the intended recipients, that is the appellant and her solicitor (both appear on the Tribunal record as having the same email address).
5. The written submissions by the appellant's solicitors are brief. These assert that 'there clearly have been clerical issues with both the instructing solicitors and the Tribunals and the individual who is truly being affected is the Appellant' and further that it is in the interests of justice to allow the appeal and remit the matter for a further hearing in the First-tier Tribunal.
6. I agree with Mr Tan that it is, frankly, extraordinary that, even at this late stage in the proceedings, the appellant's solicitors have made no attempt to show why service at the email address appearing in the papers should have been ineffective. The fact that the solicitors contacted the Tribunal quoting the appeal reference which had been notified to them via that email address is particularly telling. The fact that two different appeal references had been generated by the same immigration decision does nothing to explain the failure of the solicitors or the appellant to respond either by attending the hearing or, prior to that, providing evidence in support. I agree with Mr Tan that, far from explaining the failure to attend, the appellant was, unusually, given two chances to challenge the same immigration decision, neither of which she took. I am satisfied that the notice of hearing was validly served on both the appellant and her representative and that they have failed to explain why there was no attendance at the hearing on 14 December 2021. The First-tier Tribunal Judge perpetrated no procedural unfairness by proceeding with the hearing in the absence of the sponsor and the appellant's representative. He reached findings available to him on the evidence (he dismissed the appeal primarily because there was no evidence from the appellant - see [15-16] and [18].) Accordingly, as no error of law has been identified, the appeal is dismissed.

### **Notice of Decision**

The appeal is dismissed.

**C. N. Lane**

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**Case No: UI-2022-001267**  
**First-tier Tribunal No: EA/10954/2021**

**Dated: 10 January 2023**