



IAC-FH-AR-V1

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

Appeal Number: IA/45419/2014

THE IMMIGRATION ACTS

Heard at Field House

**Decision and Reasons
Promulgated**

**Oral determination given
following hearing on 7 July 2015**

On 24 August 2015

Before

**UPPER TRIBUNAL JUDGE CRAIG
DEPUTY UPPER TRIBUNAL JUDGE PROFESSOR N M HILL QC**

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

YEE CHOON LIM

Respondent

Representation:

For the Appellant: Mr C Avery, Home Office Presenting Officer

For the Respondent: no appearance

DETERMINATION AND REASONS

1. The respondent to this appeal, Mr Lim was the original appellant and for ease of reference I will refer to him throughout this decision as “the claimant” and to the Secretary of State who was the original respondent as “the Secretary of State”.
2. The claimant is a national of Singapore who was born on 24 November 1978. On 18 December 2013 he was granted leave to enter as a Tier 2

(General) worker but it is the Secretary of State's case that he was subsequently made redundant. For this reason when he applied to re-enter under his existing visa on 19 November 2014 the Secretary of State refused him leave to enter at Heathrow Airport when he returned from Iceland on the grounds that there had been a change in circumstances since he had been granted leave to remain in the UK.

3. For the reasons which follow it is not necessary to explore the circumstances of this case beyond saying that the claimant appealed against this decision, his appeal was subsequently considered on the papers by First-tier Tribunal Judge L Murray at Columbus House Newport and in a determination prepared on 16 February 2015 and promulgated on 18 February 2015 the judge allowed his appeal.
4. Unbeknown to the judge the claimant had in fact left the UK voluntarily on either 31 January 2015 or 1 February 2015 (it is not entirely clear from the evidence which I have seen whether or not his flight left just before or after midnight on those dates). Certainly, however, it is clear that the claimant did in fact leave the country before his appeal had been determined.
5. Pursuant to Section 104(4) (b) of the Nationality, Immigration and Asylum Act 2002 which was in force at the relevant time, an appeal under Section 82(1) of this Act is to be treated as abandoned in circumstances where an applicant has left the United Kingdom before his appeal has been determined. As this claimant had done so, his appeal ought to have been treated as abandoned and doubtless had the judge been aware that the claimant had left the country, his appeal would not have been entertained.
6. In these circumstances we are satisfied that there has been a procedural irregularity such that the decision must be set aside. We do not remake the decision but note that the appeal must be treated as abandoned for the reasons already stated.

Decision

We set aside the determination of judge Murray on grounds of procedural irregularity, because the claimant had left the UK prior to the determination of his appeal.

We record formally that the claimant's appeal is to be treated as abandoned.

Signed:

A handwritten signature in black ink, appearing to read "Ken O'Leary", written on a light blue background.

Upper Tribunal Judge Craig

Date: 17 August 2015