



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

Appeal Number: IA097542015

THE IMMIGRATION ACTS

Heard at : Field House

On : 6 June 2016

**Decision &
Promulgated**

On : 8 June 2016

Reasons

Before

UPPER TRIBUNAL JUDGE KEBEDE

Between

MUHAMMAD SALEEM

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

Respondent

Representation:

For the Appellant: No appearance

For the Respondent: Mr E Tufan, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Pakistan, born on 15 April 1984. He has been given permission to appeal against the decision of First-tier Tribunal Judge Maxwell, dismissing his appeal against the respondent's decision to refuse to vary his leave and to remove him from the United Kingdom.

2. The appellant entered the United Kingdom on 1 June 2011 with leave to enter as a Tier 4 (General) Student Migrant until 30 December 2014. On 29 December 2014 he applied for leave to remain on the basis of his private life, on form FLR(O). In a letter accompanying the FLR(O) form, the appellant referred to being in receipt of support from his EEA national cousin brother and claimed that he had established a family and private life in the UK.

3. The appellant's application was refused by the respondent on 19 February 2015, on the grounds that he could not meet the requirements in paragraph 276ADE(1) and that there were no exceptional circumstances justifying a grant of leave outside the immigration rules.

4. The appellant appealed against that decision. In his grounds of appeal, he referred to having applied for a residence permit on the basis of his EEA family member and claimed that he had established a private life in the UK.

5. The appellant's appeal was heard on 28 September 2015 by First-tier Tribunal Judge Maxwell. The appellant did not appear at the hearing and was not legally represented. The judge had before him a letter from the appellant, dated 28 September 2015, requesting an adjournment of the proceedings on the basis that he had fallen down the stairs on 24 September 2015 and had injured his lower back and could not sit, walk or stand. He said that he had visited his GP the following day and had been given a letter recommending two weeks' bed rest. Accompanying the letter was a Statement of Fitness for Work from the appellant's GP advising that he was not fit for work. The judge decided to proceed with the appeal in the appellant's absence and found that he did not meet the criteria in paragraph 276ADE(1) and that there was nothing to consider outside the immigration rules. He accordingly dismissed the appeal.

6. The appellant then sought permission to appeal to the Upper Tribunal, on the grounds that the judge ought to have adjourned the proceedings and had acted unfairly by proceeding in his absence. He asserted that the judge's decision was contrary to his Article 8 human rights and to the EEA Regulations.

7. Permission to appeal was granted on 28 April 2016.

8. At the hearing before me there was no appearance by or on behalf of the appellant and no explanation for his absence. Mr Tufan asked me to uphold the judge's decision and I did so, for the following reasons.

9. In refusing the adjourn the proceedings Judge Maxwell gave careful consideration to the application made by the appellant and properly directed himself in accordance with the provisions of Rule 28 of the Tribunal Procedure (First tier Tribunal) (Immigration and Asylum Chamber) Rules 2014. He noted that the GP's note had not suggested that the appellant was unfit to attend court or unfit to travel and found that that was not a satisfactory reason for his absence. The judge also noted that the appellant had failed to submit any documents in support of his appeal, had failed to particularise his claimed private life and had submitted no evidence or statements in relation to his

claimed EEA national relative and indeed had not even provided his name or nationality. The judge considered that the appellant had taken no steps to advance his claim and concluded that he would not be prejudiced by the appeal proceeding in his absence.

10. The appellant, in his grounds challenging the judge's decision, has not sought to respond to the judge's reasoning and has not provided any suggestion as to how he was prejudiced by the appeal proceeding in his absence. He has not produced any further evidence in relation to his private life or his claimed EEA national relative which could have been considered by the judge and which could possibly have had any effect on the judge's decision. The fact that the appellant did not appear at the hearing before me was, as Mr Tufan submitted, further evidence of the lack of any genuine substance to his case and his lack of interest in providing a genuine challenge to the respondent's decision.

11. Accordingly, I find nothing in the appellant's grounds to suggest any unfairness on the part of the judge in proceeding with the appeal as he did. The appellant's claim under Article 8 and the EEA Regulations was without any substance and was hopeless. The judge addressed all relevant matters in reaching his decision and properly concluded that the appellant's presence would have made no difference to the outcome of the appeal. The conclusions that he reached were indeed the only ones open to him on the evidence before him. I find no errors of law in his decision.

DECISION

12. The making of the decision of the First-tier Tribunal did not involve an error on a point of law. I do not set aside the decision. The decision to dismiss the appeal stands.

Signed

Upper Tribunal Judge Kebede

Dated: 8 June 2016