



**Upper Tribunal
(Immigration and Asylum Chamber)
HU/10961/2016**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

Decision & Reasons

On 9th August 2017

Promulgated

On 15th August 2017

Before

DEPUTY UPPER TRIBUNAL JUDGE GRIMES

Between

**MR YOUNES FECIH
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

ENTRY CLEARANCE OFFICER - PARIS (ALGIERS)

Respondent

Representation:

For the Appellant: Mrs Susan Fecih, the Sponsor

For the Respondent: Mr S Whitwell, Home Office Presenting Officer

DECISION AND REASONS

- 1.** The Appellant, a national of Algeria, appealed to the First-tier Tribunal against the decision of the Entry Clearance Officer dated 24th March 2016 to refuse his application for entry clearance to the UK under Appendix FM of the Immigration Rules as the partner of Susan Fecih. First-tier Tribunal Judge Graves considered the appeal on the papers and dismissed the appeal in a decision dated 11th January 2017. The Appellant now appeals with permission to this Tribunal.
- 2.** The Grounds of Appeal contend that the Appellant sent documents to the Tribunal for consideration by the judge and that these documents were

received by the Tribunal on 20th December 2016. However it is clear from the judge's decision that these papers were not before the judge when she reached her decision on 11th January 2017. It is contended that this administrative error led to procedural unfairness.

3. In granting permission First-tier Tribunal Judge Grimmett considered it arguable that there was a procedural unfairness in light of the fact that it was likely that the original bundle went astray. In the Rule 24 notice dated 13th July 2017 the Respondent indicated that she does not oppose the Appellant's application for permission to appeal and invites the Tribunal to remit the appeal for a fresh hearing before the First-tier Tribunal.
4. At the hearing before me Mr Whitwell indicated that he had nothing to add to the Rule 24 notice. He accepted that there was a procedural irregularity in this case which means that the decision has to be re-made.
5. A procedural irregularity had occurred and the Appellant has not yet had a proper hearing in the First-tier Tribunal. In these circumstances I considered it appropriate, and the parties agreed, that the matter be remitted to the First-tier Tribunal for a fresh hearing. Mrs Fecih advised that she would prefer this to be undertaken by way of an oral hearing.

Notice of Decision

6. The decision of the First-tier Tribunal contains a material error of law. I set it aside. The appeal is remitted to the First-tier Tribunal.
7. No anonymity direction is made.

Signed

Date: 14th August 2017

Deputy Upper Tribunal Judge Grimes