



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

Appeal Number: DA/00486/2016

**THE IMMIGRATION ACTS**

**Heard at Newport  
16 November 2018**

**Decision & Reasons  
Promulgated  
12 December 2018**

**Before**

**MR C M G OCKELTON, VICE PRESIDENT  
DEPUTY UPPER TRIBUNAL JUDGE J F W PHILLIPS**

**Between**

**BARTOSZ BARTOSZ KMIECIEWSKI**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: No appearance.

For the Respondent: Mr C Howells, Senior Home Office Presenting Officer.

**DETERMINATION AND REASONS**

1. The appellant, a national of Poland, appealed to the First-tier Tribunal against the respondent's decision to remove him on the grounds of public policy, public security or public health following a number of criminal convictions. The appellant was removed from the United Kingdom on 29 November 2016.
2. There was no appearance by him or on his behalf at the hearing before First-tier Tribunal Judge Seelhoff on 25 January 2018. There had been a

late request for an adjournment, which had been refused in writing for good reason. In response the appellant's solicitors, South West Law, wrote to the Tribunal, wholly inappropriately asserting that unless the Tribunal accepted that it did not need a report from a social worker in order for the appellant to succeed in his appeal their adjournment request should be granted. That second application was rejected in writing. A third request for an adjournment was made by the solicitors by fax on 23 January saying that they had "heard yesterday" that the appellant was unable to afford a flight to the UK for the hearing.

3. At the hearing itself, that fax was before the judge. Although in dealing with it the judge said that it did not make reference to the firm being unable to provide representation for the hearing (which is correct), it did in fact say that the firm would not be providing representation for the hearing - or at any rate a hearing on the date fixed - because the appellant would not be paying them. It is because the judge made no reference to that feature of this third adjournment request that permission to appeal to this Tribunal was granted.
4. To complete the story of the hearing before Judge Seelhoff, the appellant's partner (who had not been nominated as his representative) attended the hearing. She said she was surprised that there was nobody from the solicitors. The solicitors remained on the record. The Home Office Presenting Officer asked the judge to refuse the adjournment and proceed, which is what happened. The judge issued a full determination dismissing the appeal.
5. Permission to appeal was refused by the First-tier Tribunal but granted by this Tribunal for the reasons we have set out. Permission was specifically refused on other grounds relating to the substance of Judge Seelhoff's decision.
6. On 24 October 2018, South West Law informed the Tribunal that they were without instructions and would not be providing any further assistance to the appellant. They also said that they did not have a postal address for the appellant, but did have an email address.
7. The appellant had been notified of the hearing by letter sent on 8 October 2018 to him in the Netherlands at the address he gave for the purposes of his appeal; no doubt South West Law, who represented him then and for some time thereafter, will have carried out their duties by informing him of the hearing using the email address they had. There has been no response from the appellant or anybody acting on his behalf, and there was no attendance at the hearing by the appellant, any representative, or anybody claiming to be a member of his family. We decided to proceed in his absence.
8. The only ground of appeal is the procedural ground. It appears that South West law while remaining on the record as the appellant's solicitors

decided that they would not attend a hearing which they knew was going to take place. Although the judge did not refer to that we regard it as inconceivable that it would have made any difference to the decision to refuse this third adjournment request. In any event, the grounds were in the circumstances not the subject of any argument, expansion or explanation before us. It appears that the appellant is not concerned to pursue them. The substantive determination is clearly sound.

9. We dismiss the appellant's appeal.

C. M. G. OCKELTON  
VICE PRESIDENT OF THE UPPER TRIBUNAL  
IMMIGRATION AND ASYLUM CHAMBER  
Date: 26 November 2018.