



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/04227/2017

THE IMMIGRATION ACTS

Heard at Field House  
On 11 July 2018

Decision & Reasons Promulgated  
On 24 August 2018

Before

UPPER TRIBUNAL JUDGE ALLEN

Between

MR IBRAHIM RAHIMI  
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms C Bayati, instructed by S J Law Solicitors  
For the Respondent: Mr D Clarke, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is the appeal of Mr Rahimi against the decision of the First-tier Judge who heard his appeal on 1 June 2017 in his absence and dismissed the appeal. She noted that nobody attended the hearing, neither he nor legal representatives. There had been an adjournment request made and that had been refused. This showed her that he and his legal representatives were aware that the hearing date was the next day. She satisfied herself that he had been properly served with the hearing notice and in the absence of an explanation for non-attendance went on to hear the appeal. I think it is right to say that no criticism can be made of the judge in the circumstances.

2. An application for permission to appeal was made and the essential issue is the production of documentation showing that he was admitted to hospital on 24 May although the documentation provided shows that he was discharged on the 26<sup>th</sup> of May. Permission was granted by a Judge of the First-tier Tribunal and initially the respondent was of the view that factual errors in the decision might have affected the outcome and subsequently revised that view and put in a different response stating that the appeal was opposed, bearing in mind that the evidence did not show that the appellant had been in hospital at the time of the hearing.
  
3. Ms Bayati has attended on the appellant's behalf today and has been able to provide helpful clarification and I have also been assisted by Mr Clarke's thoughts on the matter. It appears that there was no contact between the appellant and his representatives after he went to hospital on 24 May. They therefore wrote in seeking an adjournment on 30 May, thinking that he was still in hospital. In fact he had been discharged on the 26<sup>th</sup> but we now also have a letter from Dr Crawley who confirmed that Mr Rahimi was readmitted to the Queen's Hospital Romford with acute pericarditis on 24 May, discharged on 26 May but was also seen in Accident and Emergency, this is the crucial point, on 1 June 2017 the date of the hearing, with chest pain and given a diagnosis of non-cardiac chest pain and discharged. As a consequence it is common ground that the medical evidence does, albeit by a slightly unconventional route, establish that he was not available on health grounds to attend the hearing. As I say no criticism could be made of the judge of this but clearly the appellant has not had the hearing to which he was entitled and therefore the matter will have to be remitted for a full rehearing of the appeal at Hatton Cross.

**Notice of Decision**

The appeal is allowed to the extent set out above.

No anonymity direction is made.



Signed

Date

Upper Tribunal Judge Allen