



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/04498/2017

THE IMMIGRATION ACTS

Heard at Field House
On 22 May 2018

Decision & Reasons Promulgated
On 1 June 2018

Before

**LORD UIST (SITTING AS A JUDGE OF THE UPPER TRIBUNAL)
DEPUTY UPPER TRIBUNAL JUDGE SHERIDAN**

Between

M O L
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr N Aghayere, Counsel instructed by Quintessence Solicitors
For the Respondent: Mr P Duffy, Home Office Presenting Officer

DECISION AND CONSENT ORDER

Background

1. This is an appeal against the decision of First-tier Tribunal Judge Herlihy which was promulgated on 10 January 2018. The decision was made following a hearing, on 19 December 2017, that was not attended by the appellant or a representative on his behalf.
2. The appellant appealed - and permission to appeal was granted - on the basis that notice of the hearing was sent to an incorrect address. The evidence before us establishes that this is likely to have been the case.

Consent Order

3. Having heard submissions by Mr Aghayere on behalf of the appellant and Mr Duffy on behalf of the respondent;
4. And upon it having been agreed by Mr Duffy that if we were of the view that the appellant did not have notice of the hearing before the First-tier Tribunal on 19 December 2017 the decision should be set aside and remitted to the First-tier Tribunal notwithstanding that the appellant was deported to Nigeria on 28 March 2018;
5. In accordance with Section 39 of the Tribunal Procedure (Upper Tribunal) Rules 2008 we:
 - A. allow the appellant's appeal;
 - B. set aside the decision of the First-tier Tribunal; and
 - C. remit the appeal to the First-tier Tribunal to be heard afresh before a different judge.

Signed

Lord Uist

Dated: