



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/10757/2017

THE IMMIGRATION ACTS

No hearing
On 18 July 2018

Decision and Reasons Promulgated
On 25 July 2018

Before

MR C M G OCKELTON, VICE PRESIDENT

Between

[M M]
(anonymity direction not made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REMITTAL

1. On 21 June 2018, I wrote to the parties as follows:

“Permission to appeal to this Tribunal has been granted in the following terms:

“The grounds challenge the judge’s refusal to adjourn the hearing to enable a witness – Mr Islam – to attend the hearing. It is arguable that the judge’s refusal to adjourn was unfair and/or that he failed to take the chronology detailed at [3] of the grounds into account when he concluded that the appellant had had “ample opportunity to prepare his witnesses”.

The judge’s reference at [10] does appear to be to rule 28 of the Procedure Rules, which was obviously irrelevant to the basis on which this application was sought; Mr Islam was not a party to the appeal. For my part, I doubt that this error was

material to the judge's consideration of the adjournment application but the absence of reference to the limited time available to the appellant to marshal his witnesses for the hearing is arguably evidence that a material consideration was left out of account."

The Respondent has indicated consent to remittal for a fresh hearing, I therefore propose without more ado to set aside the decision of the First-tier Tribunal for error of law, and remit the appeal for re-determination by the First-tier Tribunal. Any submissions to the contrary will be considered if received within **14 days** of the date of this letter."

2. There has been no response adverse or otherwise.
3. For the reasons given above I now set aside the decision of the First-tier Tribunal for error of law. I remit the appeal to the First-tier Tribunal for the re-determination by a different judge.

C. M. G. OCKELTON
VICE PRESIDENT OF THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER
Date: 18 July 2018.