



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

**Case No: UI-2022-005209**  
**First-tier Tribunal No:**  
**EA/07580/2021**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On the 25 July 2023**

**Before**

**UPPER TRIBUNAL JUDGE NORTON-TAYLOR**  
**DEPUTY UPPER TRIBUNAL JUDGE FARRELLY**

**Between**

**SAIM HASSAN**  
**(NO ANONYMITY ORDER MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Unrepresented

For the Respondent: Dr D Clarke, Senior Home Office Presenting Officer

**Heard at Field House on 12 July 2023**

**DECISION AND REASONS**

**Introduction**

1. The Appellant appeals against a decision of First-tier Tribunal Judge Kelly (“the Judge”), dated 5 April 2022. By that decision, the Judge dismissed the Appellant’s appeal against the Respondent’s refusal of his application

for an EEA family permit pursuant to the Immigration (European Economic Area) Regulations 2016.

2. Following the Respondent's refusal, the Appellant, who has been unrepresented throughout, lodged an appeal with the First-tier Tribunal. However, it seems as though no grounds of appeal accompanied the notice of appeal. A notice (IA02) was sent out by the First-tier Tribunal administration asking the Appellant to provide the grounds of appeal by 18 August 2021. That notice stated that a failure to comply with the timeframe may have resulted in the appeal being dismissed without a hearing pursuant to rule 25(1)(e) of the First-tier Tribunal Procedure Rules.
3. In due course, and on the premise that the Appellant had not complied with the deadline, the matter came before the Judge and he proceeded to determine the appeal without a hearing.

### **The Judge's decision**

4. In a very brief decision, the Judge confirmed the apparent failure of the Appellant to have responded to the request and the absence of any evidence. He then set out his conclusion that nothing had been put forward to counter the arguments stated by the Respondent in the reasons for refusal letter. The appeal was accordingly dismissed.

### **The grounds of appeal**

5. In his grounds of appeal, the Appellant asserted that he had in fact responded to the notice within the timeframe specified. He stated that he had used a particular email address; *customer.service@justice.gov.uk* (in fact, the email address stated at the top of the IA02 notice was *customer.service@hmcts.gsi.gov.uk*). He asserted that he had supplied the grounds of appeal together with a bundle in two parts. Subsequently, the Appellant provided a PDF document containing the email chain purporting to confirm the assertions made in the grounds.

6. Permission was granted on the basis in essence that it was arguable there had been a procedural irregularity in the proceedings.
7. A rule 24 response was subsequently provided, opposing the appeal.

### **The hearing**

8. At the hearing before us, Mr Clarke, with his customary fairness and pragmatism, accepted that whilst the email address used by the Appellant was not precisely that stated in the request notice, it was nonetheless the case that the Appellant had on the face of it provided the relevant information requested of him and that, in effect, there may therefore have been a procedural irregularity.

### **Decision**

9. We accept as a matter of fact that the Appellant did indeed provide the grounds of appeal and bundle within the timeframe specified, albeit that he used a different email address. We find that that address he used was valid, as he had received correspondence from the First-tier Tribunal through it. It is true that the address he used was not that which had been included in the IA02 notice, but we take account of the fact that the Appellant was unrepresented and was plainly intent on pursuing his appeal.
10. In all the circumstances, we conclude that there was indeed a procedural irregularity in this case, which amounted to an error of law, and that as a consequence, the Judge's decision must be set aside.
11. It is clear to us that this appeal must be remitted to the First-tier Tribunal for a complete re-evaluation of the Appellant's case. Directions (instructions) are set out, below.

### **Notice of Decision**

**The decision of the First-tier Tribunal involved the making of an error of law. That decision is set aside (it no longer has effect).**

**This appeal is remitted to the First-tier Tribunal, to be decided by a judge other than First-tier Tribunal Judge Kelly.**

**Directions (instructions) to Mr Hassan**

**It is important that Mr Hassan (with the help of a lawyer or friend, if necessary) reads these instructions very carefully.**

- (1) Mr Hassan will need to decide whether he wants his appeal in the First-tier Tribunal to be decided with a hearing or not.**
- (2) Mr Hassan should contact the First-tier Tribunal to find out about what will happen next in his case. He must do this no later than 21 days after my decision has been sent out to him.**
- (3) Mr Hassan will have the chance to send in any further evidence that he wants to use in his appeal.**
- (4) Mr Hassan must carefully read (with help, if necessary) any further information sent to him by the First-tier Tribunal. He must make sure that he uses the correct email address and responds or evidence within any deadlines set.**

**H Norton-Taylor  
Judge of the Upper Tribunal  
Immigration and Asylum Chamber  
Dated: 24 July 2023**