



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

Case No: UI-2023-002999

First-tier Tribunal No: HU/02476/2021

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On 18 December 2023**

**Before**

**UPPER TRIBUNAL JUDGE BLUNDELL**

**Between**

**RATHORN MOHAMED ALSHIBLI**  
**(NO ANONYMITY ORDER MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Determined on the papers under Rule 34**

**DECISION AND REASONS**

1. By a notice under rule 24, which was issued in response to directions given by Judge Perkins, the respondent accepts that the hearing before FtT (Judge Kelly) was procedurally unfair. The respondent therefore submits that there is no need for an oral hearing and that the matter might properly be remitted to the FtT de novo forthwith.
2. I agree. It was procedurally unfair for the judge to proceed with the hearing in the circumstances he described at [13]-[14] of his decision because neither the appellant nor his representatives had had proper notice of the hearing. Rule 34 permits me in these circumstances to make the decision on the appeal without a hearing and I am satisfied that it is appropriate to do so.
3. The appeal to the Upper Tribunal is therefore allowed. The appeal is remitted to the FtT to be heard afresh by a judge other than Judge Kelly.

**Notice of Decision**

Appeal allowed. Appeal remitted to FtT de novo.

**M.J.Blundell**

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

12 December 2023