



**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: EA/05158/2018

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 14 November 2018**

**Decision & Reasons  
Promulgated  
On 15 November 2018**

**Before**

**UPPER TRIBUNAL JUDGE PITT**

**Between**

**ARSLAN AKHTAR MUHAMMAD  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr R Claire, Counsel, instructed by Law Lane Solicitors

For the Respondent: Ms N Willocks-Briscoe, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. This is an appeal against the decision promulgated on 28 August 2018 of First-tier Tribunal Judge D S Borsada which refused the appellant's appeal under the EEA Regulations on the basis that he had not met a mandatory requirement of the Procedure Rules to provide grounds of appeal and had not shown the respondent's decision to refuse a residence permit to be unlawful.

2. The Tribunal file and the materials provided in the appellant's 50 page bundle confirm to my satisfaction that the appellant faxed a copy of his grounds of appeal to the First-Tier Tribunal on 21 July 2018. At page 30 of the appellant's bundle there is a fax cover sheet showing confirmation that 22 pages were sent to the correct fax number for the Tribunal. This corresponds with the 22 page bundle of appeal forms and grounds and the respondent's decision which the appellant has always maintained he sent by fax and post on 21 July 2018.
3. Also, notwithstanding his having sent the correct documents on 21 July 2018, on 10 August 2018 the First-Tier Tribunal informed the appellant that no grounds had been provided. In that regard, he relies on documents showing that he then re-sent the whole application, including the grounds, by special delivery reference BH829350659GB. He has the purchase documents for that special delivery dated 16 August 2018 and the tracking documents showing that it was signed for by the Tribunal on 17 August 2018. I am satisfied that the large letter sent on that date by special delivery contained full appeal documents including the grounds of appeal. The covering letter to the bundle dated 16 August 2018 states that to be so and refers specifically and consistently to all of the matters set out in paragraph 2 above and to a further copy of the 22 page bundle being sent with specific reference being made to those materials including the grounds of appeal.
4. As a result, I am satisfied that the appellant provided the Tribunal with the grounds and requisite documents for a valid appeal on two occasions and that the First-Tier Tribunal made a procedural error in finding otherwise. Where that is so, the decision of the First-Tier Tribunal must be set aside to be re-made *de novo*. Where there are no extant findings of fact and the appeal is to be re-made afresh, it is appropriate for that re-making to take place in the First-Tier Tribunal.

### **Notice of Decision**

The decision of the First-tier Tribunal discloses an error on a point of law and is set aside to be remade *de novo* by the First-tier Tribunal.

Signed:   
Upper Tribunal Judge Pitt

Date: 14 November 2018