



**Upper Tribunal  
(Immigration and Asylum Chamber)**  
EA/04420/2018

Appeal Number:

**THE IMMIGRATION ACTS**

**Heard at: Field House  
On: 8<sup>th</sup> January 2019**

**Decision Promulgated  
On: 16<sup>th</sup> January 2019**

**Before**

**UPPER TRIBUNAL JUDGE BRUCE**

**Between**

**Samuel Onuorah Nwachukwu  
(no anonymity direction made)**

Appellant

**and**

**Secretary of State for the Home Department**

Respondent

**For the Appellant: Ms Wass, Counsel instructed by Sunrise  
Solicitors**

**For the Respondent: Ms Cunha, Senior Home Office Presenting Officer**

**DECISION AND REASONS**

1. The Appellant is a national of Nigeria date of birth 6<sup>th</sup> September 1977 who appeals with permission the decision of the First-tier Tribunal (Judge Doyle) to dismiss his appeal against the Respondent's decision to refuse to recognise a right of residence under the Immigration (European Economic Area) Regulations 2016.

2. Judge Doyle dismissed the appeal before him with reference to Rule 25(1)(e) of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014. He found that no grounds of appeal had been lodged with the appeal form, and that despite being warned by the Tribunal that the appeal would be dismissed if no grounds were filed, the Appellant failed to comply with this requirement.
3. The grounds in this onward appeal are that grounds of appeal were in fact filed with the First-tier Tribunal in accordance with the Procedure Rules. A fax transmission sheet is produced dated the 11<sup>th</sup> July 2018 showing successful transmission of said grounds. Judge Doyle dismissed the appeal on the basis that grounds had not been submitted by that date.
4. Before me Ms Cunha for the Secretary of State accepted that there does appear to have been a procedural irregularity and accepted that in those circumstances the decision of Judge Doyle must be set aside. Given that the Appellant has in effect been denied a right of appeal before the First-tier Tribunal, the appropriate disposal would be remittal *de novo*.
5. Ms Wass requested that prior to remittal I make an *Amos* order, requiring the Secretary of State to make the relevant enquiries with HMRC about whether the Appellant's former partner was exercising treaty rights at the relevant time. I will do so but first direct that the Appellant furnish the Secretary of State with all of the relevant details, required to conduct such checks. This must be done no later than 2 weeks from the date that this decision is promulgated. Pursuant to s40 of the Borders Act 2007 I direct that the Secretary of State thereafter conduct the relevant enquiries and file and serve the resulting information no later than 6 weeks from the date that this decision is promulgated.
6. There is no anonymity order.

Upper Tribunal Judge Bruce  
8<sup>th</sup> January

2019