



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

Appeal Number: EA/00464/2016

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 24 January 2018**

**Decision and  
Promulgated  
On 24 April 2018**

**Reasons**

**Before**

**UPPER TRIBUNAL JUDGE GLEESON**

**Between**

**WASIU OLALEKAN YUSUF  
[NO ANONYMITY ORDER]**

Appellant

**and**

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

Respondent

**DECISION AND DIRECTIONS**

**Decision and directions**

1. The appellant appeals with permission against the decision of the First-tier Tribunal refusing him an extended family member residence card as the unmarried partner of an EEA national exercising Treaty rights in the United Kingdom, pursuant to the Immigration (European Economic Area) Regulations 2006 (as amended).
2. Permission to appeal was granted in the light of the judgment of the Court of Appeal in *Khan v Secretary of State for the Home Department* [2017] EWCA Civ 1755. On Monday January 15 2018, David A Grand, who represent the applicant, asked the Tribunal to find an error of law and remit the appeal to the First-tier Tribunal for remaking without an oral hearing.

3. By an order made on 17 January 2018 and sent to the parties by post on 22 and 23 January 2018, and by email at 11 am on 23 January 2018, the Upper Tribunal directed the respondent to inform the Tribunal not later than noon today, Wednesday 24 January, whether she opposed the remittal of this appeal to the First-tier Tribunal without an oral hearing. No response was received from the respondent within the time limited.
4. Accordingly, and pursuant to paragraph 40 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (as amended), I allow and remit this appeal to the First-tier Tribunal for rehearing with no findings of fact or credibility preserved.

## **DECISION**

5. For the foregoing reasons, my decision is as follows:

The making of the previous decision involved the making of an error on a point of law.

I set aside the previous decision. The decision in this appeal will be remade in the First-tier Tribunal on a date to be fixed.

Date: 10 May 2018

Signed: **Judith A J C Gleeson**  
Upper Tribunal Judge

Gleeson