



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

Appeal Number: EA/09034/2017

**THE IMMIGRATION ACTS**

**Heard at Field House**

**Decision &**

**Reasons**

**On 15 May 2019**

**Promulgated  
On 24 May 2019**

**Before**

**UPPER TRIBUNAL JUDGE ALLEN**

**Between**

**ROSHDY MAHMOUD MOHAMED ABDELSALAM GASSAR  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr M Shrimpton, for Lawland Solicitors

For the Respondent: Mr L Tarlow, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. This is the appeal of Mr Roshdy Mahmoud Mohamed Abdelsalam Gassar against a decision of the Secretary of State refusing his application for a permanent residence card to confirm he is the family member of a European Economic Area national exercising treaty rights in the United Kingdom.
2. The matter comes before me because it is said that the appellant did not have notice of the hearing that took place before the judge on 10 December 2018, so it is necessary to say a little bit about the background.

There had been an earlier listing in September 2018 when the appellant and representative attended, but due to lack of time it was adjourned. Subsequently a new notice of hearing was sent out and this was sent out on 22 November 2018 to the appellant at an address at [NW2], and to Lawland Solicitors at what I think is the correct address for them.

3. Nobody on the appellant's side attended the hearing on 10 December 2018 and it is now said that they did not receive a notice of hearing. It seems clear from the file that in fact earlier on in August the representatives had sent in a different address, a new address, for the appellant and the notice of hearing for the December hearing was therefore sent to the wrong address as far as he was concerned. It was purportedly sent to the right address as regards his representatives, but they say they simply did not receive it and there is some support for the credibility of that from the fact that they did attend the September hearing which indicates that there had been any falling off in enthusiasm for pursuing the matter, so the matter is not entirely clear, as it never can be in relation to a matter where it is contended that post has gone astray. As Judge McCarthy said when granting permission it is reasonable to infer that there has been an administrative failing somewhere along the line and as a consequence it seems to me that the appellant has not had a hearing in any real sense and therefore the matter will have to be remitted for a fresh hearing in its entirety at Hatton Cross or Harmondsworth before a different First-tier Judge.
4. No anonymity direction is made.



Signed

Date 23 May 2019

Upper Tribunal Judge Allen