



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

Appeal Number: EA/09671/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 6th December 2018**

**Decision and Reasons Promulgated
On 03rd January 2019**

Before

UPPER TRIBUNAL JUDGE COKER

Between

**SHOAIB RAZA
(ANONYMITY DIRECTION NOT MADE)**

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

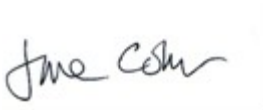
DETERMINATION AND REASONS

1. The appellant applied for a residence card as an extended family member. That application was refused, and he appeal under the 2016 EEA Regulations. His appeal was dismissed by First-tier Tribunal Judge Miles for reasons set out in a decision promulgated on 11 January 2018.
2. On 12th April 2018 the appellant was given permission to appeal on the grounds that it was arguable that the hearing was procedurally unfair because the First-tier Tribunal judge had failed to have regard to a bundle filed by and on behalf of the appellant.
3. The appellant voluntarily left the UK on 29th August 2018.
4. For reasons set out in a decision promulgated on 26th November 2018 I issued a Notice of Abandonment. It has now been drawn to my attention that the appeal in question is an appeal under the EEA Regulations and is a

non-suspensive appeal, the departure of the appellant not leading to abandonment.

5. In accordance with paragraph 43 of the Tribunal procedure (Upper Tribunal) Rules 2008, I set aside the Notice of Abandonment.
6. The appellant had produced, in his application for permission to appeal to the Upper Tribunal, evidence of the filing of his bundle of documents with the First-tier Tribunal. It appears the bundle did not reach the First-tier Tribunal judge when he made his decision. On that basis it appears that there has been a procedural irregularity such that the decision of the First-tier Tribunal should be set aside to be remade.
7. In the absence of any objection by the respondent, such objection to be received by the Tribunal within 7 days of the sending of this decision, The decision of the First-tier Tribunal is set aside for procedural error of law, and the appeal is remitted to the First-tier Tribunal to be heard afresh, no findings preserved.

Date 6th December 2018

A handwritten signature in black ink, appearing to read 'Jane Coker', enclosed in a thin black rectangular border.

Upper Tribunal Judge Coker