



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

Appeal Number: IA/28641/2015

THE IMMIGRATION ACTS

**Heard at Bradford
On 6 July 2016**

**Decision & Reasons
Promulgated
On 12 July 2016**

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**BILAL KHALID
(ANONYMITY DIRECTION NOT MADE)**

Respondent

Representation:

For the Appellant: Mr McVeety, Senior Home Office Presenting Officer
For the Respondent: Not present or represented

DECISION AND REASONS

1. The appellant, Bilal Khalid, was born on 8 February 1990 and is a male citizen of Pakistan. He appealed to the First-tier Tribunal (Judge Henderson) against a decision of the Secretary of State to refuse to issue him a residence card as a family member of an EEA national. The First-tier Tribunal found that the sponsor was exercising treaty rights and has been

in a durable relationship with the sponsor. However, the judge erred in law by allowing the appeal outright. Regulation 17(4) of the 2006 Regulations provides the Secretary of State to have the discretion to issue a residence card to an “extended family member”. That discretion has not yet been exercised. By a consent order, signed and dated 1 July 2016, the parties agreed that the Secretary of State’s appeal against the First-tier Tribunal decision should be allowed, the First-tier Tribunal decision set aside and the matter shall be remitted to the Secretary of State to exercise her discretion provided under the Immigration (European Economic Area) Regulations 2006, Regulation 17.

Notice of Decision

The decision of the First-tier Tribunal promulgated on 4 January 2016 is set aside. The findings of fact are preserved. The matter is remitted to the Secretary of State for her to exercise her discretion, in the light of the First-tier Tribunal’s findings as to whether to issue the appellant a residence card as an “extended family member”.

No anonymity direction is made.

Signed

Date 11 July 2016

Upper Tribunal Judge Clive Lane