

Federal Court



Cour fédérale

**Date: 20160506**

**Docket: IMM-1971-15**

**Citation: 2016 FC 512**

**Toronto, Ontario, May 6, 2016**

**PRESENT: The Honourable Mr. Justice O'Reilly**

**BETWEEN:**

**ABLA CHAAR  
AND RACHELE AYOUB**

**Applicants**

**and**

**MINISTER OF CITIZENSHIP,  
IMMIGRATION & MULTICULTURALISM**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] Ms Abla Chaar, a citizen of Lebanon, became a permanent resident of Canada in 2006. After just two months here, she returned to Lebanon with her children to settle her affairs there. While in Lebanon, Ms Chaar's daughter, Rachele, began university studies. In 2009, the family

returned to Canada so that Ms Char's mother could receive medical treatment here.

Unfortunately, she died during surgery.

[2] While in Canada, Rachele inquired about having her Lebanese university credits transferred to a Canadian school. She was told that she would have to start her university studies over again in Canada, losing two years of credits. She returned to Lebanon to resume her studies there. Ms Char returned with her. They had spent only ten days in Canada.

[3] The applicants returned to Canada again in 2011, but only for a few weeks. When she returned to Lebanon, Ms Char married a man she describes as abusive. She fled to Canada in 2013 to escape him. Rachele returned to Canada in 2012.

[4] After the applicants were ordered out of Canada for failing to meet the residency requirements for permanent residents, they appealed that order to the Immigration Appeal Division on humanitarian and compassionate grounds (H&C). The IAD ruled against them, finding insufficient evidence in their favour. The applicants argue that the IAD's decision was unreasonable because it overlooked important evidence supporting their appeal. They ask me to quash the IAD's decision and order another panel to reconsider their appeal.

[5] I can find no basis for overturning the IAD's decision. It was supported by the evidence before it. Therefore, I must dismiss this application for judicial review.

[6] The sole issue is whether the IAD's decision was unreasonable.

II. The IAD's Decision

[7] The IAD considered seven factors that were relevant to the applicants' H&C application:

1. Extent of Non-Compliance: The applicants were required to spend 730 days in Canada over a five-year period. Ms Chaar had spent only 163 days in Canada, and Rachele 122 days.
2. Establishment in Canada: The applicants did not establish themselves in Canada until 2012, six years after obtaining permanent residency.
3. Reasons for Absence: Ms Chaar remained in Lebanon to settle family affairs, participate in a legal proceeding, and care for her ailing mother. However, these activities did not require her to be in Lebanon full-time. Rachele stayed in Lebanon to pursue her university studies, even though she had been told that her credits would not be recognized in Canada.
4. Ties to Canada: All of the applicants' immediate family members live in Canada.
5. Hardship to the applicants: The applicants would experience hardship if required to return to Lebanon, but they are accustomed to the unstable conditions there.
6. Hardship to family in Canada: The applicants are close to their family members in Canada, but have also lived apart from them for lengthy periods.
7. Best interests of a child: Ms Chaar's youngest child is an adult who lives independently from the applicants.

[8] Balancing these factors, the IAD concluded that the applicants had failed to show compelling factors justifying their lengthy absences from Canada. Accordingly, there was insufficient evidence supporting their request for H&C relief.

III. Was the IAD's decision unreasonable?

[9] The applicants contend that the IAD's decision was unreasonable because it failed to consider a number of important factors. In particular, they argue that the IAD ignored the fact that a removal order would result in a separation of Rachele from her husband, discounted the evidence relating to the poor conditions in Lebanon, especially for women, and overlooked the danger posed to Ms Char by her estranged husband in Lebanon. Rachele also argues that the IAD appeared to misunderstand her reasons for completing her studies in Lebanon rather than in Canada.

[10] I disagree with the applicants' submissions. Overall, the IAD's analysis of the evidence was adequate and its conclusion was not unreasonable.

[11] The IAD was clearly aware of Rachele's husband as he is mentioned twice in its reasons. However, the IAD did not mention him specifically in its discussion of hardship to the family members in Canada. On the other hand, though, there was no evidence before the IAD of any particular hardship that the separation might cause.

[12] Regarding the circumstances in Lebanon, the applicants filed little information on that subject with the IAD. Their evidence was outdated and general.

[13] With respect to Ms Char's estranged husband, she testified that he had not been physically abusive towards her but she feared that he might threaten her if she returned. In my

view, the evidence did not identify a serious risk. Ms Chaar supplied additional evidence on this application for judicial review, but that evidence was not before the IAD.

[14] Rachele testified before the IAD that she believed that her degree in Lebanon might be recognized in Canada even though her individual credits would not be. The IAD might not have appreciated the distinction, but this was a very minor issue before it.

[15] The applicants' submissions do not persuade me that IAD's analysis of the evidence was inadequate, or that its conclusion was unreasonable on that evidence.

#### IV. Conclusion and Disposition

[16] The IAD's conclusion represented a defensible outcome based on the facts and the law. I must, therefore, dismiss this application for judicial review. Neither party proposed a question of general importance for me to certify, and none is stated.

## **JUDGMENT**

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is dismissed.
2. No question of general importance is stated.

"James W. O'Reilly"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-1971-15

**STYLE OF CAUSE:** ABLA CHAAR AND RACHELE AYOUB v MINISTER  
OF CITIZENSHIP, IMMIGRATION &  
MULTICULTURALISM

**PLACE OF HEARING:** HALIFAX, NOVA SCOTIA

**DATE OF HEARING:** NOVEMBER 12, 2015

**JUDGMENT AND REASONS:** O'REILLY J.

**DATED:** MAY 6, 2016

**APPEARANCES:**

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