



**Order under Section 69  
Residential Tenancies Act, 2006**

**Citation:** Al- Qadri v Ravells, 2022 ONLTB 9865

**Date:** 2022-11-07

**File Number:** LTB-L-016521-22

**In the matter of:** 3098 POST ROAD  
OAKVILLE ON L6H7C5

**Between:** Ghazala Qadri, Hammad Al- Qadri Landlord

**And**

Marisa Ravells Tenant

Ghazala Qadri and Hammad Al- Qadri (the 'Landlords') applied for an order to terminate the tenancy and evict Marisa Ravells (the 'Tenant') because the Landlords in good faith require possession of the rental unit for the purpose of residential occupation for at least one year.

The Landlords also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on October 20, 2022.

One of the Landlords, Hammad Al- Qadri (HAQ) and the Landlord's Legal Representative, Shikha Kapoor, the Tenant, and the Tenant's Legal Representative, Karen Goncalves, attended the hearing.

**Determinations:**

*Undisputed Facts:*

1. On March 22, 2022, the Landlord gave the Tenant an N12 notice of termination with the termination date of May 31, 2022 (the 'March N12 Notice'). The Landlords claim that they require vacant possession of the rental unit for the purpose of residential occupation by one of the Landlords, HAQ.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. The Tenant entered into a tenancy agreement with the Landlords on May 1, 2019 for a 2-year term.
4. The rental unit is a house, owned jointly by HAQ and his mother, Ghazala Qadri (GQ). The Tenant's main point of contact with the Landlords was the Landlord's real estate, although the Tenant also had some direct communication with GQ with respect to the tenancy.
5. The lawful monthly rent is \$2,750.00.

6. On February 24, 2021, prior to the end of term of the lease, the Landlords' real estate agent sent the Tenant a new offer to lease the unit, on behalf of the Landlords. The offer to lease was at a rent of \$3,200.00 per month, which represented a \$450.00 or 16.3% increase.
7. The Landlord was not entitled to a rent increase in 2021.
8. Later the same day, the Landlords' Agent sent the Tenant an N11 Agreement to end the Tenancy, signed by both Landlords, with a termination date of April 30, 2021. There were several rental listings within a \$3,100.00 to \$3,400.00 price range, as additional attachments to the email.
9. GQ contacted the Tenant by email on March 6, 2021 to confirm the details of an agreement to extend the lease. The Tenant responded by telling GQ that there had been no agreement reached with the Landlords' real estate agent, but that the Tenant would be willing to sign a new one-year lease at her current rent.
10. The Tenant did not agree to either of the Landlord's proposals, and the Landlords did not agree to the Tenant's proposal to a new one-year lease at the same rent, and the tenancy continued on a month-to-month basis in accordance with the *Residential Tenancies Act, 2006* (the 'Act.'). As the Landlords were not permitted to increase the rent in 2021, the rent remained at \$2,750.00 per month.
11. On December 28, 2021, The Landlords served the Tenant with an N12 notice with a termination date of February 28, 2022 (the 'December N12 Notice'). Although GQ communicated by email on February 5, 2022, asking the Tenant to vacate by the termination date, the Landlords did not file an L2 application with respect to the December N12 Notice.

#### *Compensation*

12. It is not disputed that the Landlords compensated the Tenant an amount equal to one month's rent by May 31, 2022.

#### *Good Faith*

13. The March N12 Notice was served pursuant to section 48 of the Act. Section 48(1) requires that, in order to be successful in this application, the Landlords must establish that at the time of the service of the N12 Notice, they required, in good faith, the unit for residential use.
14. In *Feeney v. Noble*, 1994 CanLII 10538 (ON SC), the Court held that the test of good faith is genuine intention to occupy the premises and not the reasonableness of the Landlord's proposal. This principle was upheld in *Salter v. Beljinac*, 2001 CanLII 40231 (ON SCDC), where the Court held that the "good faith" requirement simply means that the Landlord sincerely intends to occupy the rental unit. The Landlord may also have additional motives for selecting a particular rental unit, but this does not affect the good faith of the Landlord's notice."
15. In the more recent case of *Fava v. Harrison*, 2014 O.J No. 2678 ONSC 3352 (Ont.Div.Ct.) the Court determined that while the motives of the Landlord are, per *Salter*, "largely irrelevant", the Board can consider the conduct and motives of the Landlord to draw inferences as to whether the Landlord desires, in good faith to occupy the property."

16. HAQ testified that he intended to move into the rental unit and to live there for one year, which confirmed the contents of the declaration filed with the Board. He is currently sharing a house with his parents, grandparents, and his sister in a house, and is working from home. He requires more space to live and work, and he wants to move into the unit with his partner. He also wants to remain in the area, to be close to his family and friends, and living in the house he owns, rent-free, is the only option he can afford.
17. HAQ further testified that he first decided to move into the unit in February, 2021, and that the purpose of the N11 given to the Tenant in February 2021 and the N12 served on March 3, 2022 was the same. Both were served to evict the Tenant so that HAQ could move into the unit. The Landlords relied on the advice of the Landlords' real estate agent on the correct process, and HAQ did not know why the Landlords' real estate agent had not served an N12 notice in February 2021, and he was not aware that the Tenant had been offered a new one-year lease at the time. The Landlords later hired legal representation.
18. The Tenant's Legal Representative argued that the Landlords were not acting in good faith, because the Landlords served the Tenant with an N12 notice only after an unsuccessful attempt to get the Tenant to agree to either sign a new lease at an increased rent, or to terminate the tenancy.
19. The Tenant testified that she had been informed by the Landlords' real estate agent that the GQ did not want to have a month-to-month tenancy, and wanted the Tenant to sign a new lease at market rent instead.

### *Analysis*

20. HAQ was consistent in his testimony that he has planned to move into the unit since February, 2021, and that the Tenant was asked to sign an N11 form because HAQ wanted to move into the unit at the time the request was made. However, the Landlords did not submit any evidence that the Tenant had been informed that HAQ required the unit for his own use until the service of the December N12 Notice on December 28, 2021.
21. HAQ's testimony that the purpose of the N11 was to evict the Tenant is inconsistent with the documentary evidence. The N11 form was sent to the Tenant shortly after the new lease agreement, and was attached to an email from the Landlords' real estate agent, which stated "Please don't take it serious, this is just an option, in case, if you decide not to live here."
22. The Landlord's Legal Representative argued that the Landlords' real estate agent was acting on behalf of GQ, and not HAQ, however, GQ and HAQ own the property jointly, and neither GQ nor the Landlords' real estate agent were present to testify at the hearing. Additionally, HAQ referred to the Landlords real estate agent as "my agent" and "my representative" throughout his testimony, and the N11 was signed by both Landlords. Therefore, I find that the Landlords real estate agent was acting on behalf of both Landlords with respect to the tenancy.

23. Landlords and tenants are entitled to agree to terminate a tenancy, and a landlord's request to a tenant to sign an N11 form is not, in itself, evidence that calls into question a landlord's good faith intention to occupy a rental unit. However, because of the inconsistencies between HAQ's testimony and the actions taken on his behalf by GQ and the Landlords' real estate agent, and the Tenant's uncontested evidence that she refused to sign a new lease at a significantly higher rent that she received the same day as the N11 form, I find it likely that the Landlords had other reasons for seeking the termination of the tenancy.
24. This is a landlord's application and the burden rests with the Landlords to establish, on a balance of probabilities, that the Landlords have a genuine good faith intention that HAQ will occupy the rental unit. Based on evidence of the Landlords, weighed against the Tenant's internally consistent oral and documentary evidence, I am not satisfied that the Landlords have met this burden.
25. Therefore, the application must be dismissed.
26. As the Landlord's application is dismissed, I will order the repayment of the compensation paid to the Tenant in the amount of \$2,750.00.
27. This order contains all reasons for the determinations and order made. No further reasons will be issued.

**It is ordered that:**

1. The Landlord's application is dismissed.
2. The Tenant shall pay to the Landlord \$2,750.00, which represents the compensation paid to the Tenant by the Landlord, on or before December 6, 2022.
3. If the Tenant does not pay the Landlord the full amount owing on or before December 6, 2022, the Tenant will start to owe interest. This will be simple interest calculated from December 7, 2022 at 4.00% annually on the balance outstanding.

**November 7, 2022**

**Date Issued**

15 Grosvenor Street, Ground Floor,  
Toronto ON M7A 2G6

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Kathleen Wells  
Member, Landlord and Tenant Board

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.