



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

**Citation:** Promar Investments c/o Elite Property Group (2018) Inc. v Denley, 2023 ONLTB 20224

**Date:** 2023-02-14

**File Number:** LTB-L-066833-22

2023 ONLTB 20224 (CanLII)

**In the matter of:** 302, 233 DURAND ST  
SARNIA ON N7T5A5

**Between:** Promar Investments c/o Elite Property Group (2018) Inc. Landlord

**And**

Justine Schramek Tenant

Promar Investments c/o Elite Property Group (2018) Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Justine Schramek (the 'Tenant') because:

- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant.

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

This application was heard by videoconference on February 6, 2023.

Only the Landlord's legal representative, Melissa Anjema, and the Landlord's agent, Karen Eckel attended the hearing.

As of 10:00 AM, the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

**Determinations:**

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the tenancy will terminate.
2. On September 20, 2022, the Landlord gave the Tenant a first, voidable N5 notice of termination. The notice identified the Tenant yelling and screaming on September 9, 2022 at 5:00 AM and leaving a shopping cart in the hallway of the residential complex on

September 9, 2022 at 8:00 PM. Therefore, the Landlord was allowed to give the Tenant a second, non-voidable N5 notice of termination under section 68 of the *Residential Tenancies Act, 2006* (Act).

3. On October 5, 2022, the Landlord gave the Tenant a second N5 notice of termination. The notice of termination contains the following allegations: on October 3, 2022 at 10:10 PM, the Tenant got into a physical altercation with another resident in the residential complex resulting in physical injury to the other person and the Tenant yelled and screamed at other residents in the building after the fight.
4. Based on the uncontested testimony of the Landlord's agent and the video surveillance footage of the altercation, I find that the Tenant got into a physical fight with another person in the lobby of the residential complex and proceeded to yell and scream at other individuals in the lobby on October 3, 2022.
5. This conduct has substantially interfered with the Landlord's and other tenants' reasonable enjoyment of the residential complex.
6. The Tenant was required to pay the Landlord \$4,890.41 in daily compensation for use and occupation of the rental unit for the period from October 11, 2022 to February 6, 2023.
7. Based on the Monthly rent, the daily compensation is \$41.10. This amount is calculated as follows: \$1,250.00 x 12, divided by 365 days.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlord collected a rent deposit of \$1,250.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$17.12 is owing to the Tenant for the period from July 22, 2022 to February 6, 2023 .
10. In accordance with subsection 106(10) of the *Residential Tenancies Act, 2006*, (the 'Act') the last month's rent deposit shall be applied to the rent for the last month of the tenancy.
11. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before February 25, 2023.
2. If the unit is not vacated on or before February 25, 2023, then starting February 26, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord on or after February 26, 2023.
4. The Tenant shall pay to the Landlord \$3,623.29, which represents compensation for the use of the unit from October 11, 2022 to February 6, 2023, less the rent deposit and interest the Landlord owes on the rent deposit. If the Tenant made any payments to the

Landlord with respect to this period of time, the Landlord shall deduct the payments from the amount owing.

5. The Tenant shall also pay the Landlord compensation of \$41.10 per day for the use of the unit starting February 7, 2023 until the date the Tenant moves out of the unit.
6. The Tenant shall pay to the Landlord \$186.00 for the cost of filing the application.

**February 14, 2023**

**Date Issued**

Richard Ferriss

Member, Landlord and Tenant Board

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

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

In accordance with section 81 of the Act, the part of this order relating to the eviction of the Tenant expires on August 26, 2023 if the order has not been filed on or before this date with the Court Enforcement Office (Sheriff) that has territorial jurisdiction where the rental unit is located.