



Order under Section 69 Residential Tenancies Act, 2006

Citation: Villa Ciociara Senior Citizen's Apartments v Garrod, 2026 ONLTB 45517

Date: 2026-06-16

File Number: LTB-L-095504-25

In the matter of: 206, 900 WINDSOR AVE
WINDSOR ON N9A1K2

Between: Villa Ciociara Senior Citizen's Apartments Landlord

And

Gregory Garrod Tenant

Villa Ciociara Senior Citizen's Apartments (the 'Landlord') applied for an order to terminate the tenancy and evict Gregory Garrod (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; and
- the Tenant or another occupant of the rental unit has committed an illegal act or has carried out, or permitted someone to carry out an illegal trade, business or occupation in the rental unit or the residential complex.

This application was heard by videoconference on March 23, 2026.

The Landlord's Agent, Zack Barjawi, the Landlord's Legal Representative, Cameron Parrott, the Tenant, and the Tenant's Legal Representative, Tori Jenkins, attended the hearing.

I have considered all of the evidence presented at the hearing and all of the oral testimony, and although I may not have referred to each piece of evidence individually or referenced all of the testimony, I have considered it when making my determinations.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. However, having considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), I find that it would not be unfair to grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.

2. The Tenant was in possession of the rental unit on the date the application was filed.

N5 Notice of Termination:

3. On October 29, 2025, the Landlord gave the Tenant a first, voidable N5 notice of termination deemed served that same day. The notice of termination alleges that on October 6, 2025, the Tenant stored a bicycle and a vacuum cleaner in the hallway outside his unit door in contravention of the fire code and partially blocking a common area. The Tenant then repeated this behaviour by storing his bicycle in the hallway again on October 28, 2025.
4. I acknowledge it would be prejudicial to a tenant if the allegations in a first N5 Notice were without any foundation and made simply for the purpose of allowing a landlord to serve a second, non-voidable notice pursuant to section 68(1) of the Act. I am satisfied the contents of the first N5 notice substantiate that this was not the case in the matter before me. Therefore, the Landlord was allowed to give the Tenant a second, non-voidable N5 notice of termination under section 68 of the Act.
5. On November 11, 2025, the Landlord gave the Tenant a second N5 notice of termination deemed served that same day. The notice of termination alleges that on November 9, 2025, the Tenant was seen smoking a cigarette in the lobby of the residential complex, contrary to the *Smoke-Free Ontario Act, 2017*, while accompanied by his two dogs, at least one of whom was not on leash, and neither were under the Tenant's physical control contrary to the City of Windsor By-Law No 8156.
6. The Landlord's Agent, who is the property manager for the residential complex, testified that the Landlord is a not-for-profit organization, and more than half of the rental units in the building are for rent-geared-to-income housing. The residential complex is also for seniors only, many of whom have medical ailments including respiratory issues requiring oxygen assistance tanks.
7. A copy of the residential complex security camera footage from November 9, 2025 at 2:40 a.m. was submitted as evidence at the hearing. The footage shows the Tenant smoking a cigarette in the lobby of the residential complex while holding a hatchet and knife. The Tenant's two dogs are with him, only one of which was wearing a leash, though the Tenant was not in control of it at the time. The Tenant can be seen talking to someone at the bottom of the screen.
8. The Tenant confirmed his presence on the November 9, 2025 security footage. He testified that he absentmindedly smokes inside the building at times when he knows he should not, however, he does so due to stress and does not intend to be problematic. On that night, the Tenant observed from his balcony someone he thought was a homeless person trying to enter the residential complex, so he ran downstairs to stop them.
9. The Tenant further testified that his dogs were with him that night because they accompany him everywhere, and the Tenant left in such a hurry that there was no time to put both their leashes on. The Tenant stated that his dogs are not aggressive, and they have not hurt any other residents or guests. The Tenant acknowledged, however, that he knows dogs are not permitted to be off-leash in the common areas of the residential

complex. The Tenant also acknowledged that he has been given prior notices regarding his smoking and the dogs being off-leash.

10. Having considered the parties' evidence and submissions, I am satisfied on the balance of probabilities that the Tenant's conduct has substantially interfered with the Landlord's or another tenant's reasonable enjoyment of the residential complex or lawful right, privilege or interest. The Tenant admitted that he knows there is no smoking allowed in the building and that his dogs are to be on a leash when in common areas. The security video clearly shows the Tenant in the lobby of the residential complex, smoking with one his dogs off-leash and the leash of the other not in the Tenant's control. Though it is noted that the Tenant is also holding a knife and hatchet in his other hand in the video, the allegations in the N5 notice pertain only to the Tenant smoking and his dogs being off-leash; therefore, the basis of the analysis for this application is limited to those allegations.
11. The residential complex is home to only senior citizens, and I accept the Landlord's Agent's testimony that many of them have respiratory issues that require an assisted breathing device (oxygen tank). It can be reasonably inferred, therefore, that the Tenant smoking in the common areas of the building could exacerbate the medical issues of several of the other tenants, thereby substantially interfering with their ability to reasonably enjoy the residential complex. The Tenant's smoking also, consequently, substantially interferes with the Landlord's right, privilege or interest to provide the other tenants with a smoke-free environment.
12. With respect to the Tenant's dogs being off-leash, the Tenant is aware of his responsibility to make sure his dogs are leashed when in the common areas. Though the Tenant testified his dogs are well behaved, that does not absolve him of the obligation to have them leashed in common areas in accordance with the municipal By-Law and for the safety of the other tenants and guests in the residential complex. Consequently, I find that the Tenant has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant by also not ensuring his dogs were leashed in the common areas of the residential complex.

N6 Notice of Termination:

13. On November 11, 2025, the Landlord gave the Tenant an N6 notice of termination deemed served that same day. The notice of termination contains the same set of facts as the second N5 notice, stating that on November 9, 2025, the Tenant was seen smoking a cigarette in the lobby of the residential complex, contrary to section 12 of the *Smoke-Free Ontario Act, 2017*, and was accompanied by his two dogs, at least one of whom was not on a leash, and neither were under the Tenant's physical control contrary to the City of Windsor By-Law No 8156.
14. Subsection 12 of the *Smoke-Free Ontario Act, 2017* states:
 - 12 (1) Subject to any exceptions that may be provided for in the regulations, no person shall do any of the following in a place mentioned in subsection (2):
 1. Smoke or hold lighted tobacco.

2. Smoke or hold lighted cannabis.
 3. Use an electronic cigarette.
 4. Consume a prescribed product or substance, in a prescribed manner.
15. For the purposes of this case, subsection 12(2) of *Smoke-Free Ontario Act, 2017* includes prohibiting smoking a cigarette in “any indoor common area in a condominium, apartment building or university or college residence, including, without being limited to, elevators, hallways, parking garages, party or entertainment rooms, laundry facilities, lobbies and exercise areas.”
 16. Section 8 of the City of Windsor By-Law No 8156 states that no person who owns any animal shall permit such animal to be at large within the City of Windsor. In this case, an animal is defined to be “at large” if it is not under the control of any person by being on a leash not more than three meters in length.
 17. Section 61 of the *Residential Tenancies Act, 2006* permits termination of the tenancy where a tenant commits an illegal act or has carried out, or permitted someone to carry out an illegal trade, business or occupation in the rental unit or the residential complex.
 18. As set out in the Board’s *Interpretation Guideline 9*, the term “illegal act” generally refers to serious conduct that may affect the character of the premises or the safety and reasonable enjoyment of others.
 19. The Landlord’s Legal Representative argued that the Tenant’s contravention of the law disturbs the other tenants’ reasonable enjoyment of the residential complex and has the potential to affect the character of the building due to the harmful effects of second-hand smoke and the greater negative impact that has on a residential complex housing vulnerable seniors. With respect to the dogs either not being on a leash or the Tenant not holding the leash, this is not only in contravention of the municipal By-Law but also poses a safety risk to the other tenants and their ability to reasonably enjoy the residential complex if the Tenant is seen not to be in control of his dogs.
 20. The Tenant’s Legal Representative argued that no supporting documentary evidence was submitted showing any such negative effect on the character of the building for either the Tenant smoking or his dogs being off-leash.
 21. Based on the evidence before me, I am satisfied on the balance of probabilities that the Tenant has committed an illegal act in the residential complex. As assessed in paragraphs 10-11 of this order, the Tenant admitted he was aware of the smoking prohibition and can clearly be seen smoking in the lobby of the residential complex in the November 9, 2025 security camera footage. The Tenant’s dogs were also not seen under his control in the video, contrary to the municipal By-Law.
 22. Paragraph 28 of *Samuel Property Management Ltd. v. Nicholson* 2002 CanLII 45065 (ON CA) sets out that trivial illegality does not warrant termination of a tenancy. Unlike an N5 notice, an N6 notice of termination contains no curative provision under the *Residential Tenancies Act, 2006* for the Tenant to void the notice by ceasing the problematic conduct or paying to repair or replace any damages. Consequently, to justify termination of a

tenancy by an N6 notice, the illegal act must be sufficiently serious. In this instance, I am inclined to agree with the Landlord that the Tenant's smoking in the residential complex and his dogs being seen at large is sufficiently serious to grant the Landlord's application. It is commonly known that second-hand smoke is harmful, and these effects can be exacerbated in vulnerable persons, such as seniors and those with respiratory issues. The requirement that dogs be under the control of their owners is also a preventative measure to ensure the safety of the public and, in this case, vulnerable seniors and their care givers. Consequently, I am satisfied that the Tenant has committed an illegal act in the residential complex, and that act is sufficiently severe to warrant termination of the tenancy.

23. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

Relief from Eviction:

24. 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 not be unfair to grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.
25. The Tenant is 65 years old and lives with only his two dogs. The Tenant is currently displaced due to a fire in the rental unit, and the Landlord's Agent could not provide a timeline regarding the completion of the renovations. The Tenant also receives rent-geared-to-income assistance and testified he has been unable to find another rental unit in his limited price range. If he were evicted from the unit, he would essentially be homeless.
26. The Tenant currently sees a psychiatrist and has been taking medication for depression for the last few years. He is also currently awaiting an operation for his back, knee, and shoulder which will restrict his mobility to a wheelchair while he recovers; however, the Tenant stated there is no set date for the surgery yet.
27. The Tenant reiterated his desire to preserve the tenancy, stating that he will only smoke on his balcony, and he will ensure his dogs wear their leashes when they leave the rental unit. Both the N5 & N6 notices make specific reference to the prohibition of smoking indoors and in common areas, and the Landlord, though given the opportunity, did not challenge the practicality of the Tenant's proposal to smoke only on his balcony.
28. The Landlord seeks to terminate the tenancy and evict the Tenant. The Landlord's Agent testified that there have been similar instances to those detailed in the N5 & N6 notices on multiple occasions, and other tenants have complained about being blocked from entering the residential complex by the Tenant and his dogs when they are off their leashes, saying they are concerned for their safety while the Tenant's dogs are at large. Consequently, the Landlord has little faith the Tenant will abide by any conditional order. However, no documented complaints from other tenants were submitted as evidence.
29. I have considered the Landlord's interest in maintaining a safe environment for their residents, as well as the severity of eviction as a remedy. As noted in *Sutherland v Lamontagne* [2008] OJ No. 5763 (Ont. Div. Ct.), "to remove a person from the residency he occupies is a serious experience and should not be taken lightly." Eviction is a remedy

of last resort and should be granted where the tenancy cannot be saved without overly prejudicing a landlord's interests. The issues in this application are regarding the Tenant smoking indoors in a common area with his dogs either off their leashes or not in his effective control. Without sufficient documentary evidence or testimony from other tenants regarding specific complaints about the extent and frequency of the Tenant's problematic behaviour, I am not satisfied that the Landlord's submissions outweigh the Tenant's seemingly sincere desire and proposal to preserve the tenancy. Therefore, I am satisfied that the Landlord's concerns can be appropriately addressed through a conditional order that directly addresses the conduct.

30. As the Tenant is temporarily displaced from the rental unit due to a fire, the conditions in this order shall commence on the date the Tenant regains possession of the unit and shall remain in effect for a period of twelve months thereafter.

It is ordered that:

1. The tenancy between the Landlord and the Tenant continues if the Tenant meets the conditions set out below.
2. For the period of 12 months from the date the Tenant resumes occupancy of the rental unit, the Tenant shall not:
 - (a) smoke inside the residential complex except for the balcony of his rental unit;
 - (b) permit any dog or other animal in the Tenant's care to be in any common area of the residential complex unless always secured on a leash under their control.
3. If the Tenant fails to comply with the conditions set out in paragraph 2 of this order, the Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the tenancy and evicting the Tenant. The Landlord must make the application within 30 days of a breach of a condition. This application is made to the LTB without notice to the Tenant.
4. The Tenant shall pay to the Landlord \$186.00 for the cost of filing the application.
5. If the Tenant does not pay the Landlord the full amount owing on or before June 27, 2026, the Tenant will start to owe interest. This will be simple interest calculated from June 28, 2026 at 4.00% annually on the balance outstanding.

June 16, 2026
Date Issued

Fotoula Hatzantonis
 Member, Landlord and Tenant Board

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