

Costly fight:

Residency by-law

heading to court...again

By Lynda Powless

Editor

Six Nations Band Council may be heading to court over a move to evict the wife of a local language teacher from the community.

Six Nations Band Council Chief Wellington Staats says the Six Nations Band Council has been served with notice of application made by Viki Carroll-Miller, wife of local language teacher Frank Miller, to quash an eviction order issued by the

band council in May.

Staats said the order was received Monday. "We just got it Monday. I don't really know what is going to happen now. We won't know for a couple of days."

Staats said the papers will be forwarded to Six Nations Toronto law firm. "We passed it on to our lawyers and we'll be talking to them in a couple of days."

Whatever happens, Staats says

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Residency bylaw challenge will be expensive court case

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Whatever happens, Staats says it's going to be expensive for the community. "It's going to be very, very expensive."

Six Nations Band Council has 10 days to respond to the order that is expected to be heard in Toronto at the Federal Court, trial division.

The application asked the federal court to quash the decision of the council that ordered Viki Carroll-Miller to leave the community and to issue a permanent injunction barring the council or anyone acting at its direction from removing Mrs. Miller from Six Nations.

The application also asked the court to declare the Residency By-Law invalid and unenforceable.

The court action arose after the Six Nations Band council received a written complaint from band members about Viki Carroll-Miller living at Six Nations. Carroll-Miller is a not a band member. The residency bylaw stipulates only band members can reside at Six Nations. The woman was ordered June 8 to leave Six Nations by July 8.

The Millers claim the order interferes with their property rights, family relationship and structure, and that they weren't given notice that their residency was being considered or questioned and they weren't given an opportunity to be heard.

The Millers maintain the order has the effect of "requiring band members Franklin W. Miller and Matthew Tehawerenhton Miller (their foster child) to leave Six Nations, "a result that is beyond the authority of Six Nations Council or the scope of the Six



Miller

Nations Residency By-Law."

The Millers maintain their rights under the Canada Charter of Rights and Freedoms have been violated.

They maintain the eviction order is discriminatory and violates their rights to "equality before and under the law and to the equal protection of the law without discrimination guaranteed by the Canadian Charter of Rights and Freedoms.

The Millers also maintain the bylaw is beyond the scope of the band council's authority under the Indian Act. They maintain the Indian Act does not empower the band council to make by-laws in respect of spouses and children of members of the band that contradict or are otherwise inconsistent with by-laws made in respect of members of the band themselves.

The application also maintains the by-law is beyond the authority of the band council because it determines who is of Six Nations ancestry and is entitled to benefit from "their ancestral and traditional relationship with the lands of



Staats

Six Nations..

It maintains the bylaw interferes with the aboriginal rights of Franklin W. Miller and his family.

The application charges the bylaw does not provide for or allow persons affected by it an opportunity to be heard and threatens to breakup marriages and families and violates their rights under the Canadian Charter of Rights and Freedoms to equality and equal protection without discrimination.

The Millers aren't the first to challenge the bylaw.

Dave and Pamela Henderson lost their challenge to the bylaw two years ago and have since sold their home and moved.

The Millers came to the attention of the band membership committee when an Akwesasne woman and "band members" wrote letters of complaint to the lands and membership committee.

Council, initially gave the Millers 48 hours to leave the community.

