

IN THE MATTER between **MIDWEST PROPERTY MANAGEMENT**, Applicant,
and **DWAYNE DUTKOWSKI**, Respondent;

AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter
R-5 (the "Act");

AND IN THE MATTER of a Hearing before, **HAL LOGSDON**, Rental Officer,
regarding the rental premises at **YELLOWKNIFE, NT**.

BETWEEN:

MIDWEST PROPERTY MANAGEMENT

Applicant/Landlord

- and -

DWAYNE DUTKOWSKI

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. The application is dismissed.

DATED at the City of Yellowknife, in the Northwest Territories this 16th day of October,
2003.

Hal Logsdon
Rental Officer

IN THE MATTER between **MIDWEST PROPERTY MANAGEMENT**, Applicant,
and **DWAYNE DUTKOWSKI**, Respondent.

AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter
R-5 (the "Act");

AND IN THE MATTER of a Hearing before **Hal Logsdon**, Rental Officer.

BETWEEN:

MIDWEST PROPERTY MANAGEMENT

Applicant/Landlord

-and-

DWAYNE DUTKOWSKI

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: October 14, 2003

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Wanda O'Keefe, representing the applicant

Date of Decision: October 14, 2003

REASONS FOR DECISION

The respondent was served with a Notice of Attendance on October 6, 2003 but failed to appear at the hearing. The hearing was held in his absence.

The applicant received a written complaint from a tenant in the residential complex alleging that the respondent grabbed her six year old daughter on the stairwell on July 11, 2003 and shouted at her. The applicant served a notice of early termination on the respondent pursuant to section 54(f) of the *Residential Tenancies Act* seeking vacant possession of the premises on July 25, 2003. The applicant filed an application to a rental officer on August 22, 2003. The respondent has not vacated the premises and the applicant seeks termination of the tenancy agreement.

The applicant also stated that the respondent has, on other unspecified occasions, yelled at children from his window and confronted her in an abrupt manner in the hallway.

Section 54(4) permits a landlord to serve a notice of early termination on a tenant where,

....the safety of the landlord or other tenants of the residential complex has been seriously impaired by an act or omission of the tenant or person permitted in or on the rental premises or residential complex by the tenant.

In my opinion, there is insufficient evidence to support this allegation. The child's mother did not see the respondent grab her child. There is no direct evidence to indicate that the child was

harmful or threatened or touched. Shouting at a child does not, in my opinion, constitute a threat to safety. There is no evidence the incident disturbed other tenants, except the child's mother. The other testimony concerning the respondent's alleged behaviour was vague. In my opinion, there is insufficient evidence to support the allegations. The application is therefore dismissed.

Hal Logsdon
Rental Officer