

THE RIGHT TO ADEQUATE HOUSING

How to fight for your rights



Centre for Equality Rights in Accommodation
Social Rights Advocacy Centre

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This booklet explains how you can stand up for your right to adequate housing under Canadian and international law.

WHAT IS THE RIGHT TO ADEQUATE HOUSING?

Everyone in Canada has the right to adequate housing. This means that everyone should have housing that is:

- Affordable
- Good quality, with plumbing, heat, electricity and safe drinking water
- Accessible and barrier-free
- Close to employment, healthcare, education and social services
- Culturally appropriate

The right to adequate housing also means that:

- people should not be discriminated against
- governments must allocate available resources to provide housing to those in need
- people should not be evicted without proper hearings and
- no eviction should be allowed to result in homelessness.

WHERE IS THE RIGHT TO ADEQUATE HOUSING FOUND?

The right to adequate housing is found in various international laws, including the *International Covenant on Economic, Social and Cultural Rights*. Canada and all of the provinces and territories have agreed to this right.

The Canadian Charter of Rights and Freedoms also includes many rights which are related to the right to adequate housing, such as the right to security of the person and the right to equality.

Also, the human rights codes for all provinces and territories protect people against discrimination in housing. If you have been discriminated against in housing you can file a complaint.

HOW CAN YOU USE THE RIGHT TO ADEQUATE HOUSING?

Even though Canadian courts cannot directly enforce your right to housing under international law, they can apply Canadian laws like the Canadian Charter of Rights or human rights legislation to protect the right to adequate housing. Also, the Supreme Court of Canada has said that government officials or tribunals must follow the basic values recognized under international human rights law. So when your right to adequate housing has been violated you may be able to take legal action. There are also many other ways to stand up for your right to adequate housing such as through political action.

ONE EXAMPLE: CORRINE MAY BE EVICTED

Corrine is a single mother who lives in Edmonton with two daughters. When her youngest daughter was very sick, Corrine missed work for two weeks. Now she cannot pay the \$720 monthly rent on her apartment. She asked the landlord if she could repay what she owed over a few months, but he demanded the money right away. Then the landlord told Corrine that she would have to move in 14 days. Corrine tried to find another apartment, but everything she saw was either too expensive or

“not available” for a family with children. After the 14 days, the landlord took Corrine to court to have her evicted. Corrine was very worried that if she and her daughters were evicted, they would be homeless.

Corrine’s right to adequate housing was threatened in two ways.

- Being evicted when she had **no other housing** may violate Corrine’s rights.
- Being told she cannot rent an apartment because she has a daughter was **discrimination**.

WHAT CAN CORRINE DO?

Stand up for her rights

- **Go to court to fight the eviction.** The landlord cannot evict Corrine without taking her to court. In court, Corrine should make it clear that her family could become homeless if she is evicted. She should remind the court that the governments of Canada and Alberta must uphold the right to adequate housing, which means that courts should not evict people unreasonably when they are at risk of homelessness.

- **File a human rights complaint.** Corrine can file human rights complaints against the landlords that refused to rent to her because she is a single mother.

- **Tell her story to the United Nations.** Every five years, the United Nations Committee on Economic, Social and Cultural Rights reviews how well Canada is respecting people’s rights, including the right to adequate housing. The committee met in Geneva, Switzerland, in May of 2006. Many Canadian organizations attend the reviews and talk about how the right to adequate housing and other rights are being violated. Individual stories, like Corrine’s, can help explain what is happening in Canada. For more information, call **CERA: 1.800.263.1139**.

Take political action

- **Contact her local, provincial and federal politicians.** Corrine could ask them what they are doing to make sure that everyone in Canada enjoys the right to adequate housing. It is important that policy-makers know that Canadians will stand up for their human rights.
- **Fight for better laws in Canada.** Around the world many cities, provinces and countries are passing laws and human rights

charters that include protection of the right to adequate housing. For example, Montreal's new Charter of Rights and Responsibilities recognizes the need for safe and affordable housing. People can urge other cities and municipalities in Canada to adopt charters protecting this right. People can also lobby governments to change human rights codes to include the right to adequate housing, and to ensure that federal - provincial agreements guarantee the right to adequate housing. Corrine could work with groups that are fighting to improve protection of the right to adequate housing. She could also persuade her political representatives to support these initiatives.

Educate

- **Encourage others to get involved.** Corrine could use her knowledge and experiences to become a human rights educator. She could challenge her friends and others to stand up for the right to adequate housing for everyone in Canada. The more people are aware of and fighting for their right to housing, the more likely our politicians will take action to ensure this right becomes a reality.

Ask for help

- **Contact a local legal clinic.** If Corrine wants to fight for her rights, but does not know where to begin, she could contact a local legal clinic.
- **Contact community organizations.** Corrine could also get in touch with community organizations that work on housing, human rights, poverty or other social issues. Staff and volunteers can often give advice or help people who want to promote their human rights.
- **Call City Hall.** If Corrine doesn't know of any groups in her community, she could call City Hall to ask for the names of local organizations.

HOW TO WIN THE RIGHT TO ADEQUATE HOUSING

The chart below provides a few examples of problems people have getting adequate housing and actions that have been taken by some individuals to stand up for their rights.

Problem	Who fought this problem?	What did they do?	What has happened
You are told you cannot rent an apartment because you have children.	Albena St. Hill, a single mother in Ontario, was turned down for an apartment because she has a child.	She filed a human rights complaint against the landlord with the assistance of CERA.	The human rights tribunal ordered the landlord to stop discriminating in its choice of tenants. It ordered the landlord to pay Albena more than \$6,000.
You are told you cannot rent an apartment because your income is too low.	Catarina Luis came to Canada as a refugee from the civil war in Angola. She and her daughter were refused the most affordable apartments she could find because the landlord said her income was not high enough, and she would be paying more than 30% of her income toward rent.	Catarina thought this violated her right to housing, and she filed a human rights complaint against the landlord. An expert in the right to housing under international human rights law came to the hearing and told the tribunal members about how the United Nations had told Canada that this kind of discrimination should be stopped.	The landlords got together and spent hundreds of thousands of dollars to try to defeat Catarina's complaint, but she won. Now it is illegal for landlords to refuse to rent to people because of their income level. Human rights tribunals have said that minimum income rules discriminate against many disadvantaged communities, including women, young families, persons of colour, immigrants and refugees, young people, and people on social assistance.
You have a disability and need housing and support in your community.	<p>In Nova Scotia, many people with disabilities are being forced to stay in hospitals and other institutions far longer than necessary because the province has not provided community-based housing and supports.</p> <p>"JJ" was kept for over 5 years in a psychiatric hospital because the province refused to give her supports so she could live in the community. The province's plan was to place her on a waiting list for an institution located 100 km. from her home.</p>	<p>Some individuals, including "JJ", have taken the provincial government to court and to the province's human rights commission.</p> <p>Recently, community organizations brought this issue to the attention of the United Nations Human Rights Committee.</p>	<p>The Nova Scotia Supreme Court ruled that the proposed housing plan was not in "JJ"'s best interests – it did not provide appropriate housing and support in her community. The Supreme Court of Canada supported this decision.</p> <p>The United Nations Human Rights Committee said that all governments in Canada should do more to make sure that appropriate community-based housing is available for people with mental disabilities.</p>

A number of other situations may come up where you could take action to stand up for your right to adequate housing. For example:

- You are staying at a shelter which has a "**maximum length of stay**". You can't find a new apartment and a staff person tells you that you will have to leave.
- You are told by a social housing provider that, because you have a child, you cannot apply for a bachelor or one bedroom apartment. Because of this, your family will have to **wait many extra years to access affordable housing**.
- You live in subsidized housing and the social housing provider is threatening to **evict** you because, due to a misunderstanding, you missed a deadline to submit proof of your income.
- Your landlord applies to the government to **increase your rent** above an allowable guideline. You know that your family will not be able to afford the new rent.

In all of these cases, it may be helpful to tell the decision-maker that you and your family are at risk of homelessness. Tell them that your right to adequate housing under international human rights law must be considered in making the appropriate decision. If it is not, get legal help to try to get the decision reversed.

IS THE RIGHT TO ADEQUATE HOUSING BEING VIOLATED IN CANADA?

The United Nations Committee on Economic, Social and Cultural Rights is alarmed at how often people's right to housing is violated in Canada. When it reviewed Canada in 1998, the Committee was very concerned "that such a wealthy country as Canada has allowed the problem of homelessness and inadequate housing to grow to such proportions that the mayors of Canada's 10 largest cities have now declared homelessness a national disaster." The main problems are **Affordability, Quality, Accessibility, and Protection from Forced Evictions**.

Affordability

Housing is not affordable for thousands of people. In 2001, almost one in five people who rent used more than half of their income on rent. Low income families are often forced to choose between paying the rent and feeding their children. For example, a single parent with one child receiving social assistance in Vancouver gets \$520 a month for housing, but the average rent for a two-bedroom apartment is almost \$1,200.

The UN Committee was particularly concerned that lower social assistance benefits and few affordable places made it harder for women to escape domestic violence.

Quality

One in five tenants live in apartments that need major repairs.

Housing for Aboriginal people is particularly bad. The UN Committee is concerned about the shortage of adequate housing in Aboriginal communities, and the fact that the Canadian government has not provided safe and adequate drinking water on reserves.

The Toronto Disaster Relief Committee looked at conditions in shelters for the homeless in Toronto. They found that many shelters did not meet minimum UN standards for refugee camps.

Accessibility

Many landlords refuse to rent to individuals and families for illegal, discriminatory reasons. Because of discrimination, young families, persons of colour, youth, people with disabilities, single

mothers, recent immigrants and refugees, Aboriginal people, and people receiving social assistance often cannot get housing.

People with disabilities regularly have to live in apartments or houses that are not barrier-free: in 2001, almost 40% of Canadians with disabilities needed changes to make their homes fully accessible.

All provinces and territories have human rights legislation to protect against discrimination, but the UN Committee on Economic, Social and Cultural Rights has found that it is not enforced properly. They said discrimination will continue unless governments do more.

Protection from Forced Evictions

Many tenants in Canada are evicted unnecessarily, often resulting in homelessness. In 2004, at least 36,000 households in Ontario were forced to leave their homes without ever getting a hearing. Many owed less than one month's rent. An adjudicator with the Ontario Rental Housing Tribunal - the government agency responsible for addressing disputes between landlords and tenants in Ontario - recently stated that the province's eviction process discriminates against single parents, people with

disabilities, and recent immigrants and refugees.

Under international law, no one should be evicted without a fair hearing and without consideration of whether and where they are going to be able to find alternative accommodation.

What needs to change?

The UN Committee on Economic, Social and Cultural Rights has made several recommendations about how to promote the right to adequate housing in Canada. The government of Canada should:

- Increase social housing programs
- Improve and properly enforce laws against discrimination in housing
- Increase the amount people on social assistance get for shelter allowances to reflect what rent actually costs
- Provide adequate supports for persons with disabilities
- Improve protections against eviction
- Establish a national strategy to combat homelessness and poverty

The federal and provincial governments have not acted on any of these recommendations.

HOW CAN I FIND OUT MORE?

For more information and resources please go to www.equalityrights.org/cera



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