

Who we are

The Centre for Equality Rights in Accommodation (CERA) was established in 1987 and is a not-for-profit legal organization that assists people who face discrimination when they are trying to find or keep housing. CERA's services are free. We receive no on-going funding for our work.

CERA also offers training on human rights in housing. If you are interested in a training session or educational materials, please call us.

Contact Us

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Access, Equity & Human Rights

YOUR HOUSING RIGHTS



A REFERENCE GUIDE



Centre for Equality Rights in Accommodation
Centre pour les droits à l'égalité au logement

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DISCLAIMER

The information contained in this booklet is for informational and educational purposes only and is not legal advice. If you require legal advice you should contact a lawyer or a Community Legal Clinic. It should also be noted that the Ontario Human Rights Tribunal decisions are not binding upon persons who are not party to them. Nevertheless, they must be regarded as having significant persuasive authority.

Filing a Human Rights Application

The process

To make a claim with the Tribunal, you must complete a formal application. Applications are available from the Tribunal's website at www.hrto.ca. You may also be able to resolve your case through mediation at the Tribunal.

Once your application is complete, you can send it to the Tribunal by mail, email or fax.

Registrar- Human Rights Tribunal of Ontario
655 Bay St. 14th Floor
Toronto, ON M7A 2A3

E: HRTO.Registrar@ontario.ca
F: 416.326.2199

Unless there is a valid reason to dismiss your application, such as you missed the filing date (one year from the date of discrimination), you will be given an opportunity to have a hearing before a judge.

CERA can help

If you are facing housing discrimination, CERA can assist with accessing and completing the necessary application and forms.

Call CERA at 416.944.0087 or 1.800.263.1139. All of CERA's services are free.

The Human Rights Legal Support Centre may also be able to provide assistance. You can contact the HRLSC at 1.866.625.5179 or online at www.hrlsc.on.ca

More examples...

Religion

You are Muslim and you wear traditional clothing. You call about an apartment and it is available. When you show up to look at it, the landlord says it is already rented, but the “For Rent” ad continues to run on Craigslist.

It is illegal to deny someone an apartment because of their religion – or for any other prohibited ground.

Family Size

You are a single father with a small child. You want to rent a one-bedroom apartment that you can afford, but the landlord says that a parent and small child are not allowed to live in a one-bedroom apartment. He tells you that you must rent a bigger apartment.

A landlord should not refuse to rent your family an apartment because the unit is “too small” unless, by renting to you, the landlord would be breaking a municipal overcrowding or health and safety by-law. (Note: In Toronto this means one person per nine square metres of living space. These by-laws are different in each city, but you would need a lot of people in a small apartment to be legally over-crowded.)

What is harassment?

Harassment is a course of comment or conduct – so more than one incident – that is unwelcome *and* relates to a prohibited ground of discrimination. One single incident of unwelcome behavior may not be harassment under the *Code*, unless it has created a poisoned environment.

The *Code* states that all tenants have the right to “freedom from harassment by the landlord or agent of the landlord or by an occupant of the same building” – Section 2(2)

Ontario’s *Human Rights Code*

Ontario’s *Human Rights Code* is the most important law in Ontario. It overrides all other laws in the province, unless the other legislation says explicitly that this is not the case.

The purpose of the *Human Rights Code* is:

to recognize the dignity and worth of every person and to provide for equal rights and opportunities without discrimination... [and to create] ... a climate of understanding and mutual respect for the dignity and worth of each person

The *Code* says that every person in Ontario has the right to freedom from discrimination in the following areas:

- Employment
- Services (like education and health care)
- Membership in trade unions, etc
- Contracts
- Occupancy of accommodation = HOUSING

This booklet will focus only on housing.

Housing and the Code

What is housing discrimination

The spirit of the Code is fairness and equality of opportunity. In the sections about housing, the Code helps to ensure that all people in Ontario have equal opportunity to access accommodation (ie. getting the housing they need) and equal opportunity to enjoy the benefits that come along with that housing (ie. not being hassled by their neighbours or being afraid of being evicted). Section 2(1) of the Code says:

Every person has a right to equal treatment with respect to the occupancy of accommodation, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status, disability, or the receipt of public assistance.

A housing provider cannot treat a person unfairly or refuse to rent to them because of a prohibited ground of discrimination.

What types of housing are covered by the Code?

The Code applies to self-contained dwellings, including private market units (regular landlords), public housing units (subsidized), condominiums, and cooperative housing units. **It is important to know that if you share a bathroom or kitchen with your landlord or his/her family the Code does not apply.**

More examples...

Age

You are 17 and have just left home. You find a suitable bachelor apartment, but the landlord says that he only rents to people who are 18 or older.

16 and 17 year olds who are living away from their parents cannot be refused an apartment because of their age. A lease signed by a 16 or 17 year old is legally binding. See Thaila's story on page 5.

References, Credit Checks and Job Tenure

You are 17 and you apply for an apartment. The landlord reviews your application and says she won't rent to you if you cannot provide Canadian landlord or credit references, or prove that you have had your job for at least one year.

Landlords should not refuse to rent to you because you have no previous Canadian landlord references or credit history. An absence of credit and landlord references for a Code-related reason is not the same as bad credit or bad landlord references. A landlord's demand that you show a long employment history may also be discriminatory.

Minimum Income Criteria

You apply for a one-bedroom unit and the landlord says, "Sorry, I don't rent to anyone making less than \$30,000 a year."

A landlord should not refuse you an apartment because she doesn't think your income is high enough. A landlord is only allowed to make sure you have enough money to cover the monthly rent. It is not the landlords business how you will cover other monthly costs.

Examples of Discrimination

A note about identities: Many of us will face multiple and intersecting forms of discrimination during our lives. For example, a young, single mother could be treated unfairly because she is a woman; because she is unmarried; because she receives Ontario Works; because of her skin colour; etc.. Think about this as you explore the examples that follow...

Racism

There was a flood on the floor above you. Both you and your neighbor have damaged walls because of it. Your neighbour's apartment is repaired within a few days without her having to make any formal request. You ask the landlord when your apartment will be repaired and he tells you that you need to file a maintenance request. When you complain, the landlord comments that "you people" are so difficult and demanding. You are black and your neighbour is white.

You have the same rights as your neighbor. It is illegal for a landlord to treat you differently because of your race.

Sexual Orientation and Gender Identity

You are a lesbian and you and your partner go to see an apartment. The landlord asks if you have boyfriends that will visit. You say no and explain that you are partners. The landlord tells you that he runs a "family" building and will not rent to you

It is illegal for a landlord to refuse to rent to you because you are in a same-sex relationship.

Disability

Due to a worsening disability, you will soon need to rely on a wheelchair. You tell your landlord that you will need a ramp in order to access your apartment. Your landlord tells you he does not have the money to install a ramp and that you should just move.

Landlords have a duty (called the "duty to accommodate") to change structures or practices in order to ensure that persons with disabilities are able to use and enjoy their housing.

Who is protected by the Code?

Prohibited grounds of discrimination

The Code says that you have the right to be free from discrimination based on your

- Race
- Place of origin
- Ethnic origin
- Creed (religion)
- Sexual orientation
- Gender expression
- Age (16+ in housing)
- Family status
- Ancestry
- Colour
- Citizenship
- Sex
- Gender identity
- Disability
- Marital status
- Receipt of public assistance (housing only)

What is discrimination

Discrimination occurs when rules, policies, or practices impose burdens or obligations and/or withhold benefits from individuals who fit one of the above prohibited grounds. Discrimination does not have to be intentional. It can be direct (ie. "I will not rent to you because you are 17") or it can be constructive (hidden).

Constructive (hidden) Discrimination: Constructive or hidden discrimination is when seemingly neutral rules, policies, or practices have a negative effect on a group that is identified by a prohibited ground in the Code.

Reprisal

Reprisal is a retaliatory act. Someone commits reprisal when they try to take revenge or get even with the person who made a human rights complaint against them. **Reprisal is illegal.**

Knowing Your Rights & the Importance of Self Advocacy

Becoming a self-advocate

During our lifetimes, we all need housing. Even looking for an apartment the first time we move out can be tough. Knowing our housing rights is the first step to standing up for fairness and equality. It allows us to not only stand up for ourselves, but also to help the people we care about.

The law isn't just for lawyers and the courts. We can all talk about it and learn about it and use it to do good in our communities. In CERA's experience, self-advocacy is key to making change happen in our lives.

For young people, accessing and keeping housing can particularly difficult. Not only do many landlords hold prejudicial views about young people as tenants, lots of us don't understand our rights as young renters. Combined with high housing costs, many young people have a hard time securing the housing they need.

20% of the homeless population in Canada are youth.

The examples in the pages that follow happen all the time, and reflect just a few of the types of discrimination the we hear about at CERA every day.

Many landlords are unaware of their obligations under the *Human Rights Code*. CERA believes that all of us – renters, landlords, young people – need to better educate ourselves about our rights and responsibilities.

A self-advocate's story

In 2013, a young woman named Thaila called CERA because she was having trouble getting an apartment. The landlord told her the apartment she was interested in was already rented, but Thaila suspected she was being lied to – that the landlord didn't want to rent to her because she was under 18 years old. (*Remember: in Ontario, young people aged 16 and 17 are legally entitled to sign a lease if they are independent of their parents.*)

Thaila stood up for herself – or advocated for herself – and, with CERA's support, won her case at the Ontario Human Rights Tribunal in August, 2014. It took a lot of work and a lot of time, but in the end her right to access housing – free from discrimination based on her age – was upheld.

"I want youth to know there's options out there and I want them to know what their rights actually are... I didn't really know. I was ready to give up. I don't want any landlord to do this to anybody." –Thaila

The landlord was ordered by the Human Rights Tribunal to pay Thaila \$10,000 and to develop and post a human rights policy in all rental buildings in her portfolio.