

Housing and Human Rights in Canada Video Series Instructions and Supplementary Information Guide

This four part video series is designed as an introduction to housing and human rights law in Canada for a general audience including tenants, students, housing providers, community workers and advocates. It is not intended to replace review and study of specific provincial or territorial human rights legislation, but to complement it and highlight common elements found across the country.

These videos are designed to be used anywhere in Canada either as stand alone educational tools or as components of larger public education sessions or initiatives. The following guide will provide some suggestions on how to use the second video, *Human Rights Law and Rental Housing*, as part of a human rights in housing workshop. The suggestions are tailored to be useful in a wide variety of workshop settings for a wide variety of audiences.

These suggestions can be incorporated at the end of the video or during the course of the video.

Human Rights Law and Rental Housing

Probably the best way to supplement this video would be through incorporating specific case examples to illustrate different types of discrimination and generate discussion.

Hidden Racial Discrimination

After a year of dating, Vicky (an Aboriginal woman) and Pete (a non-Aboriginal man) decided to move in together. They saw an advertisement for a 1-bedroom apartment and made an appointment to view it. Vicky decided to check out the apartment while Pete went grocery shopping. Pete said he would drive by the apartment building after shopping to get Vicky. When Pete arrived at the building, Vicky was waiting by the sidewalk. She said the landlord told her the apartment was already rented. Vicky and Pete thought this seemed suspicious, as they had just called the landlord a few hours earlier. Pete decided to check into the apartment himself. While Vicky waited at the car, he went to the building and buzzed the landlord. The landlord opened the door and when Pete asked about the apartment, the landlord said it was available and offered to show him the unit.

In this case, both Vicky and Pete could file a complaint of discrimination. For Vicky, it would be discrimination based on her race and/or ethnicity and for Pete it would be discrimination based on association.

Rental Advertisements

Phrases in advertisements indicating that a group of people covered by a prohibited ground (e.g. families with children) are not welcome could violate human rights laws:

- ❖ “looking for professional couple”
- ❖ “quiet, mature building”
- ❖ “suits single or couple”
- ❖ “no students” (age discrimination)
- ❖ “geared to young professionals”

Application Forms

St. Hill v. VRM Investments Ltd.(2004), CHRR Doc. 04-023 (HRTO)

The Human Rights Tribunal of Ontario held that a landlord who asks the age of a prospective co-occupant on an application is prima facie committing an act of discrimination.

Income and Employment Requirements

Dwayne (22) and Tanesha (21) are a young couple looking for a one bedroom apartment. They both work part-time, Dwayne at the Best Buy and Tanesha at Chapters. They found an apartment they like renting for \$850/month which they can easily afford on their two incomes. In fact, they have been paying \$900/month at their current apartment for the past two years. Dwayne and Taneseha completed the application, handed it in to the rental agent and got a call back two days later. The rental agent said they had been turned down because the landlord requires an income of at least \$30,000/year for a one bedroom apartment and at least one year of permanent employment.

This is an example of adverse effect discrimination. Minimum income requirements such as the one applied to Dwayne and Tanesha can be argued to have a discriminatory impact on young people as they are disproportionately likely to have lower incomes and therefore unlikely to meet such requirements. Similarly, requirements related to employment tenure disadvantage young people.

Credit and Reference Requirements

Aslam recently immigrated from Pakistan to Canada and is living with friends until he can find his own apartment. He sees a reasonable bachelor apartment on Viewit.ca and calls the rental agent. When Aslam asks what would be required to rent the apartment, the agent says, “We need a letter from your employer, previous landlord references – and we will conduct a credit check.” Aslam explains that he recently arrived in Canada and is looking for work, but that he has \$10,000 in savings to tide him over until he can find a job. He tells the landlord he currently has no Canadian landlord references or credit. The rental agent tells Aslam that he shouldn’t bother applying because he won’t be approved.

As a newcomer to Canada, Aslam is unlikely to have Canadian credit and references and therefore, requiring him to provide them has an adverse, discriminatory impact on him

based on his newcomer status. Newcomers are also disproportionately likely to be unemployed and relying on savings when they first arrive. Requiring an employment letter and not considering their savings, therefore, could be seen as discriminatory.

Co-signor Requirements

Anisha is a sole-support parent with one child receiving social assistance. She called a local rental office and the agent told her what they need on an application. When Anisha mentioned she can bring in her social assistance cheque stub, she was told she would be required to have a co-signer or guarantor in order for her application to be considered.

Landlords cannot require an applicant to provide a co-signor based on a prohibited ground of discrimination, such as the applicant's source of income.

Discriminatory Occupancy Rules

Karen is married and has four children – three daughters and one son. When she called a rental office to inquire about a three-bedroom apartment she saw advertised in the local newspaper, the building's rental agent told her that the apartment was still available. The agent then asked who would be living there. When Karen described her family, the rental agent told her that management of the building allows a maximum of five people to reside in a three-bedroom apartment. Karen then told the rental agent that she and her husband would share one bedroom, while the four children would share the other two. To this, the rental agent responded, "boys and girls cannot be in the same bedroom." Karen was told not to apply for the apartment.

Occupancy requirements can have the effect of restricting the ability of families with children to find appropriate, affordable housing. Therefore, they can have an adverse effect on families. They are also often based on culturally defined notions on what is appropriate space for families. Unless they would be violating relevant health and safety legislation, landlords should not turn down families with children based on the size of the family. Restricting access to housing based on the sex of children could also be considered discriminatory.

Accommodation of Residents with a Disability

This is a large topic that could easily be the basis for its own video (in fact, CERA has created a video on the duty to accommodate residents with disabilities in the Ontario context).

Kiran has been living in the same building for 10 years. Recently, her multiple sclerosis has progressed and she now uses a cane for balance. She lives on the first floor but there are several steps, and no railing, at the entrance of the building. She is having trouble with these stairs and asks the landlord if he can install a railing. He says "no" because it will be too expensive.

It is not enough for the landlord to claim making a modification will be too expensive. The landlord needs to prove (with quotes, cashflows, operational budgets, etc.) that the cost would be so substantial that it would affect the viability of the business. Even if the landlord can prove he/she cannot afford the modification (which would be very unlikely in the above case), he/she would need to investigate other options that are affordable.

Sheila is a senior who has lived in a one bedroom unit for 17 years. The superintendent heard reports from other tenants that her unit is “crammed with belongings”. When the superintendent inspected the unit, she found boxes, papers and garbage bags literally stacked to the ceiling. The super reported to the property manager who gave Sheila an eviction notice.

Sheila hoards. This is related to a mental health condition that would be included under definitions of disability in human rights legislation. To accommodate Sheila, the property manager should have first brought in a fire inspector to confirm that Sheila’s apartment is in fact a fire hazard. If it is not, then her belongings should not be a problem. If it is, then the property manager should help connect Sheila to resources in the community that can help her remove some of the belongings. The property manager should also give Sheila a reasonable amount of time to do this, as it can be very hard for people who hoard to part with their belongings. Finally, the property manager should be prepared that this may be a recurring problem and he/she may have to continue working with Sheila to help her keep the apartment safe.

Diane lives with environmental sensitivities. Breathing in odours, fumes and pollutants in the air can make her very ill. Diane has had numerous problems with the property management of her building, including:

- ❖ *the use of scented cleaning products in common areas*
- ❖ *The use of toxic oil-based paints in her hallway*
- ❖ *spraying for cockroaches*
- ❖ *lack of notice when doing maintenance activities that could affect her health*

Diane has requested that the property management accommodate her disability, and has provided a medical support letter from her family doctor.

Environmental sensitivities (sometimes called Multiple Chemical Sensitivities) are considered disabilities under human rights legislation. In order to accommodate Diane’s disability, the housing provider may have to switch over to unscented/low or no VOC cleaning and maintenance products, use non-toxic pest control products and provide adequate notice before conducting maintenance in common areas and on Diane’s floor so that she can take steps to avoid the fumes and dust.