

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 third and fourth videos, *Challenging Discrimination Parts 1 & 2*, as part of a human rights in housing workshop. The suggestions are tailored to be useful in a wide variety of workshop settings.

Challenging Discrimination Parts 1 & 2

Unlike the other videos in the series, *Challenging Discrimination Parts 1 & 2* are targeted more at community advocates than a general audience. That being said, they also have useful information for human rights claimants themselves.

Preventing Discrimination:

If this video is being used to supplement an education session direct at tenants or housing seekers, it might be helpful to first provide discussion and activities related to preventing discrimination. For example, the facilitator(s) could engage participants in a discussion of possible strategies to prevent discrimination. Some strategies could include (depending on the particular group of tenants/housing seekers):

- ❖ Educate yourself on your rights
- ❖ Treat meeting the housing provider like a job interview. You need to go into any meeting with a housing provider understanding that the balance of power favours the landlord
- ❖ Bring a friend with you to see the apartment. By doing this you will have a witness and the housing provider will have to be more careful about how they treat you
- ❖ Bring a copy of previous landlord references if you have them
- ❖ If there is an application form, fill it out as completely as possible. If a landlord wants to refuse someone for discriminatory reasons, he/she may instead use the excuse of an “incomplete” application
- ❖ If possible, keep a copy of the application. By doing this, you will know exactly what information you included and will be in a better position to negotiate with the landlord if there are any problems
- ❖ Make use of community resources that can help you get the apartment. This is a good opportunity to provide participants with a list of local resources.

Negotiating with the Landlord

If the video is being used to supplement a session directed at community workers or advocates, the facilitator(s) may want to incorporate a sample negotiation with a housing provider. Here is one example:

Your client has been turned down because she is receiving social assistance:

Advocate: Hello, can you tell me if the one bedroom apartment advertised in Kijiji is still available?

Landlord: Yes it is.

Advocate: Do you have any concerns renting to someone on social assistance?

Landlord: You need to be employed if you want to rent here. I've had problems with welfare recipients in the past.

Advocate: My name is Mira Jonas and I work with Edmonton Housing Action. I'm calling on behalf of Tina Vasquez who applied for a one bedroom apartment for her and her son. I understand that she was not considered because she receives social assistance. Did you know that under the Alberta *Human Rights Act* it is illegal to refuse to rent to someone based on their source of income?

Landlord: It's my building and I can rent to whomever I want. I don't want to rent to someone receiving welfare. They're not going to pay the rent. Are you going to pay the rent when they skip out?

Advocate: It isn't fair to assume that Ms. Vasquez is going to be a bad tenant just because of her source of income. By all means check into her history as a tenant. Ms. Vasquez has good landlord references and more than enough income to cover the rent. The reason she wants to move to your building is that she feels the neighbourhood would be better for her young son. I urge you to reconsider your decision. Ms. Vasquez is very interested in renting the apartment. Can I tell her that she can come in to see you again?

Sample Advocacy Letter

Participants may also benefit from viewing sample advocacy letters. A sample letter can be found below. It can be modified to be consistent with the human rights legislation for your province/territory.

Dear Mr. Smith:

Re: Danielle Tenant – obligation to accommodate her disabilities

The Community Housing Law Project (CHLP) is a non-profit organization that promotes human rights in housing. We advocate on behalf of clients, and assist them in filing human rights complaints.

We are writing to you on behalf of our client Ms. Danielle Tenant, who lives at 32 Short Street, Apartment 20H, and who contacted our Centre on or about May 10th, 2012. Ms. Tenant has a disability that affects her mobility and which necessitates the use of a scooter. Ms. Tenant advises us that there is a step at the entrance to her building, as well as two heavy doors that are making it exceedingly difficult to come and go from the building. Because of the step, Ms. Tenant is unable to use her scooter, which she must therefore leave in her apartment when she goes out. Instead, she uses her walker to move from her unit to downstairs. Since the walker is too large to fit in her car, she then needs to leave the walker on the first floor of the apartment building and use her cane to walk to her car. The use of her cane is leading to shoulder problems, which are exacerbated by having to use the heavy doors at the entrance. In total, the situation is causing great physical and mental distress to Ms. Tenant.

The Northwest Territories' *Human Rights Act* (the *Act*) mandates that all people in the Territory have equal opportunity to access rental accommodation and equal opportunity to enjoy the benefits that come along with that housing without discrimination. Section 5. (1) states:

For the purposes of this Act, the prohibited grounds of discrimination are race, colour, ancestry, nationality, ethnic origin, place or origin, creed, religion, age, **disability**, sex, sexual orientation, gender identity, marital status, family status, family affiliation, political belief, political association, social condition and a conviction for which a pardon has been granted.

The *Act* goes on to state:

Section 12. (1) No person shall, on the basis of a prohibited ground of discrimination and without a bona fide and reasonable justification,

- (a) deny to any individual or class of individuals the right to occupy as a tenant any commercial unit or self contained dwelling unit that is advertised or otherwise in any way represented as being available for occupancy by a tenant; or
- (b) discriminate against any individual or class of individuals with respect to any term or condition of occupancy of any commercial unit or self-contained dwelling unit.

(2) In order for the justification referred to in subsection (1) to be considered bona fide and reasonable, it must be established that accommodation of the needs of an individual or class of individuals affected would impose undue hardship on a person who would have to accommodate those needs.

Under the *Act*, housing providers have a duty to accommodate persons with disabilities to the point of undue hardship. This means that companies, such as Very Large Properties Ltd., will have to modify rules, policies and structures to meet the particular needs of residents with disabilities. Undue hardship will only be found where a housing provider can prove that making the necessary accommodations would prove so expensive as to threaten the viability of the company, or where it would involve unreasonably health or safety risks.

We are requesting that you take the necessary steps to address the accessibility concerns of Ms. Tenant by installing a ramp and automated doors at the

entrance of the building. It is our opinion that such action is necessary to ensure that you are respecting Ms. Tenant's rights under the *Act*.

Please feel free to contact us if you have any questions or concerns. I can be reached at (867) 362-0258 ext. 28. For your information, I have included a copy of our booklet on *Disability and the Duty to Accommodate: Information for Landlords*.

We look forward to your co-operation in the resolution of this matter.

Sincerely,
Community Housing Law Project
Per:

Janice Tie
Human Rights Advocate

CC: Ms. Danielle Tenant
Encl.

Sample Advocacy Scenario

The following scenario can be used in conjunction with *Challenging Discrimination Parts 1 & 2* to guide workshop participants through the various stages of working with a human rights claimant. This scenario utilizes the Northwest Territories *Human Rights Act*, but it can be easily modified to conform with other provincial/territorial human rights legislation.

Jane has lived in her apartment for 5 years. For the first 2 years, everything was fine. Then she had a flood as a result of a burst pipe in the wall in her bedroom. Many of her things were ruined, but Jane's main concern was the carpeting and the possibility for mould to grow in the baseboards and walls if the proper precautions were not taken. The flood affected a number of apartments in her building.

For the first few weeks after the initial clean up, everything was fine. Then Jane started noticing a bad smell coming from the floor and baseboards. She contacted the building manager and he told her that she had to put her concerns in writing. Jane did so.

A week or so later the property manager Dale came to her apartment to see the problem. He determined that the smell was from the flood, but that there was nothing he was authorized to do, as an outside company had already completed its contract for clean-up. He also told Jane that the damage to her belongings was her problem, as the building's insurance did not cover personal damage. Jane was upset by this and told Dale as much. He became agitated and remarked "You people think you should have everything your way." Jane was offended as an Aboriginal woman and told Dale that this was completely inappropriate. He immediately said, "Oh I am sorry, I didn't know that, I meant you tenants".

Several weeks went by and Jane started to feel ill. She began wheezing too. She missed several days of work that she could not be paid for. Her doctor told her that it was mould exposure. As a result, she went back to Dale and told him

that the smell was clearly mould and that there were serious implications for her health. He told her that he would look into what could be done, but that she would have to provide medical documentation and put her request in writing again. Jane complied with his requests. Shortly thereafter, Jane saw Dale who told her that her apartment would be taken care of in about 4 weeks time. He told her that the company that does the work was not available until then. Although Jane was worried, she believed that she could do nothing to speed up the process.

A few days after this, Jane noticed the truck with the clean-up company's name on it in the building parking lot. When she saw the man from the truck she went outside to inquire about what he was doing there. He told her he was there for clean up from the flood. She asked about her apartment and when he checked his roster, he told her that her unit had just been added to the others and scheduled for four weeks from now. This confused Jane, as she had put in a request for further clean up so soon after the flood occurred. Jane went back to her apartment to call Dale to ask why she had just been added to the list of apartments that need to be repaired. On the phone, he told her that the maintenance person must have been mistaken. He also said, "Isn't it enough for you that this work will be done? I have done the best I can do."

Additional Information (should only be made available in response to participant questions):

- ❖ Jane is not visibly Aboriginal
- ❖ There is one other Aboriginal family that lives in the building, but the flood did not affect them.
- ❖ They have had an ongoing problem with their fridge for the last five months. It keeps breaking down and each time the PM tells them they have to put a request in writing for repair. They keep losing food and have asked for a new fridge after the second time it broke.
- ❖ They have lived in the building for seven years and always have to put requests for repairs in writing.
- ❖ At one point, in an argument about the fridge, Dale referred to them and "You Indians". He also mumbled something about wishing there were none in his building.
- ❖ Jane then called a friend in her building, Trina. She asked Trina to quietly ask around or speak with Dale about the flood and the ensuing repairs. Trina did so and found out that Jane seemed to have gotten the run-around from the Dale. She learned that all the other units affected by the flood were being repaired within a week or had already been repaired. Although she wasn't sure, she believed that the scheduled repairs were automatically booked after the first initial clean up.
- ❖ Jane lost 4 days of work: \$420
- ❖ Replacement costs for Jane's belongings: \$600
- ❖ After the flood, Dale did initial clean-up by vacuuming the water and putting in fans
- ❖ Trina knows one family who was affected by the flood. She eventually found an opportunity to speak with them and found out that they did not need to put anything in writing for the PM to have the damage and mould repaired. The ongoing clean up for them was scheduled immediately after the flood occurred. They are white.
- ❖ Trina also found out that all of their damaged personal belongings were replaced by the building's insurance company.
- ❖ Trina, who is white, has never had to put a work order in writing, because it is a small building.

- ❖ The cleaning company has an ongoing contract for service with Jane's building. It is renewed on a yearly basis.
- ❖ Trina found out through her other friend in the building that Dale once commented on the fact that he is upset that there is an "Indian in 204"
- ❖ Dale's last name is Mark
- ❖ Trina's last name is Kern
- ❖ Trina's friends: Steve and Nancy Jacob
- ❖ The Aboriginal family name is called Dewar
- ❖ Jane's Address is: 12 Naughton Way, Unit 204, Yellowknife, NWT. M4X 1R9
- ❖ Dale works for Yellowknife Building Property Management Inc. The address is the same as Jane's, but unit 100.
- ❖ The flood happened on May 2, 2012.
- ❖ Trina will complete a witness statement.
- ❖ The Aboriginal family will complete a witness statement.

First Call:

- What kind of human rights issue(s) do we see here?
- What actions are clearly linked to a human rights issue?
- What actions *may* be linked?
- What information is missing or would be helpful?
- How will we get that information?
- are there other Aboriginal people in the building? What has been their experience with Dale?
- Has anyone ever heard Dale say anything discriminatory about Aboriginal people?
- Have other people affected by the floods had the same experiences as Jane?
- What is the name of the company Dale works for?
- What is Dale's last name? Phone number? Address?
- What is Jane's full name, address and telephone number?
- Has Jane had other problematic experiences with Dale?
- Is Jane visibly Aboriginal?
- How much money did Jane lose because of missing work, damaged belongings?
- What are the key dates?

Gathering Evidence:

Witnesses?

- No firsthand witnesses

Get witnesses?

- Trina Kern
- Steve and Nancy Jacob
- The Dewers
- Get witness statements

Documentary Evidence? (impacts)

- Employment letter with income statement
- Letter from doctor re: illness due to mould
- Photographs of damaged belongings (receipts if available)

Other Evidence:

- Dale lied about cleaning contract

- Only one other aboriginal family in the complex
- Many Aboriginal families in the neighbourhood (socio-demographic information)

Negotiations with respondent:

Goal:

- Compensation for damaged belongings and lost work time
- Human human rights training for building staff
- Transfer of Dale to another position?
- Letter of apology
- Posting *Human Rights Act* and Non-Discrimination policy prominently in the building

Anticipate:

- Did not know Jane was Aboriginal. She doesn't look Aboriginal
- Says Jane is a problem tenant

Sample Complaint

1. I am an Aboriginal woman who lives at 12 Naughton Way, Unit 204 in Yellowknife. I have lived in the unit for 5 years. Yellowknife Building Property Management Inc. (YBPM) manages the building and Dale Mark (Dale) is the individual in charge.
2. On or about May 2, 2012, a pipe burst in the wall of my bedroom and flooded my bedroom. Many of my personal belongings were damaged along with the carpet and baseboards in the room.
3. On or about May 2, 2012, I contacted Dale about the flood. Dale arranged for an outside company to come in and vacuum up the excess water. He also brought fans in and let them run for 72 hours to dry out the walls and carpets. He told me that the building would not pay to replace my personal belongings – that I would have to take care of it myself.
4. About a week later I began to smell a terrible smell. On or about May 9, 2012, I called Dale again to let him know that I needed additional work done. He told me he could do nothing unless I put everything in writing. I did so.
5. On or about May 14, 2012, Dale came back to my apartment to attend to the work order. He determined that the smell was from the flood, but told me that the contract with the cleaning company was finished and there was nothing he could do. It would just have to dry out. When I became agitated, he remarked, "You people think you should have everything your way". I immediately addressed his comment as racist, but he insisted that he did not know I was Aboriginal and that he meant "you tenants".
6. A few weeks later I became ill and I missed four days of work for which I was not paid. I went to my doctor on May 28, 2012 who told me it was likely mould exposure.
7. On or about May 28, 2012, I contacted Dale again and told him about the problems I was having and the health implications. He told me I again had to put everything in writing and that I had to provide a doctor's note. I did so.
8. Dale came to see my unit on or about June 3, 2012. He told me that he would arrange a clean up, but that it would be in about 4 weeks time. Although I was upset, Dale advised me that the company was completely booked up.

9. On or about June 5, 2012, I noticed the clean up company truck in the parking lot of my building. I approached the driver who told me that he was doing flood repair. He also told me, when I asked, that my unit had just been added to his roster for four weeks from now.
10. As soon as I got back to my apartment, I called Dale again. He told me that the service technician must have been mistaken and remarked "Isn't it enough for you that this work will be done? I have done the best I can do."
11. Because I did not want to cause problems, I just left things alone with Dale. However, I immediately contacted my friend Trina Kern in the building and asked her to dig around and find out anything she could about the flood and the repairs. I explained everything to Trina. Trina is white.
12. In our conversation, she told me that she has never had to put anything in writing to have work done no matter how big the job. This was not my experience, as no matter what repairs I needed I had to make a written request.
13. About a week later Trina called me and told me that she found out that one family, who she was friendly with, and who were affected by the flood, had all their personal belongings replaced by the building's insurance company. She also told me that the repairs completed after the initial clean up had been done automatically and that the family, also white, did not have to put anything in writing. I also learned from Trina that Dale had once complained to her friends about the "Indian in 204".
14. On or about June 14, 2012, I approached the Dewers, the only other Aboriginal family in the building. I knew the Dewers casually and explained my situation. I learned that their experience was similar to mine and that Dale had once referred to them and "You Indians".
15. I believe that Dale Mark did not complete the repairs to my apartment in a timely fashion, and imposed onerous terms of occupancy on me not required of other residents, because I am an Aboriginal person.
16. I therefore believe that my right to equal treatment with respect to tenancy without discrimination because of race or ancestry has been violated contrary to sections 5 and 12 of the *Human Rights Act*, S.N.W.T. 2002, c. 18.