

HUMAN RIGHTS

YOUR RIGHTS TO KNOW

We don't live in a perfect world. Discrimination is all around us and it can interfere with our daily lives. From the waitress whose boss or customers leer and grab, to the Indo-Canadian worker fired as a "trouble-maker" for objecting to racist graffiti in the workplace; human rights violations can happen to just about anyone. But *The British Columbia Human Rights Act* protects our rights in three main areas; 1) Employment, 2) Accommodation, Services and Facilities customarily available to the public, and 3) Tenancy & Purchase of Property.

In Canada, human rights legislation is governed both federally and provincially. *The Canadian Human Rights Commission* is the federal agency that deals with human rights complaints, issues and education. *The Canadian Human Rights Act* is the legislation

that covers all federally regulated businesses and agencies. *The B.C. Human Rights Act* deals with the same things on a provincial level. Some 85% of employers in B.C. are under provincial jurisdiction. In this brochure we will talk about human rights violations provincially.

In B.C. we have a *Human Rights Council* made up of not more than five people appointed by the provincial government. This Council deals with human rights complaints and violations. If you're not sure whether your complaint is a federal or provincial matter, contact *The British Columbia Council Of Human Rights* or your local Employment Standards Office if it is closer. **The Human Rights Coalition** is also here to help de-mystify the system. A directory for all these offices is located at the end of this booklet.



On The Job

Employment

A person cannot be refused work, promotion, be fired or forced to work under different conditions because of:

Age

Race

Colour

Ancestry

Place of Origin

Political Belief

Religion

Marital Status

Physical or Mental Disability

Sex (including sexual harassment and pregnancy)

Conviction For A Criminal Or
Summary Conviction Charge
That Is Unrelated To The
Employment

Employment

Advertisements

Employers are not allowed to exclude any class or category of person from their advertisements unless the preference is based on a genuine occupational requirement. For example, a blind person applying for a job as a cab driver could be turned down because total vision is a genuine occupational requirement for driving.

Job Applications and Interviews

Your employer can ask you personal questions during your interview. However if you believe this information is used to deny you an opportunity to work then you probably have grounds for a legitimate human rights complaint.

For example, if your employer inquires about your health and then says he or she is rejecting your application because you are an insulin dependent diabetic, you can challenge this discrimination. Even if you have reason to suspect unjust discrimination but have no concrete evidence you may still be able to file a complaint.

Wages

The most frequent wage discrimination is directed against women. Women and men should receive the same rate of pay for work that is similar or substantially similar.

Unions

You can't be excluded, expelled, suspended or discriminated against by any trade union, employers' organization or occupational association because of any of the categories listed under "Employment"



Graphic courtesy The New Internationalist



Graphic courtesy The New Internationalist

Finding A Home

No one can be refused tenancy or vary any condition or tenancy because of:

Race
Colour
Ancestry
Place Of Origin
Religion
Marital Status
Physical Or Mental Disability
Sex (including pregnancy and sexual harassment)

The Act doesn't cover tenancy where sleeping, bathroom or cooking facilities are shared.

Housing co-operatives run by non-profit groups can also be exempt from this Act. When a non-profit group is promoting the welfare of an identifiable group of class or persons (see list under "Finding A Home") it won't be contravening the Act by granting preference to members of this group.

If, for example, a non-profit society sets up a housing development specifically or physically disabled people it can turn down applications from able-bodied individuals.

Tenancy

If you are trying to rent accommodation *The Human Rights Act* can protect you.

Unfortunately, a landlord can refuse to accept tenants with children and can turn down

tenants because of their financial status i.e. welfare recipients. Depending on the circumstances, you can sometimes argue sex or marital status discrimination when turned down for housing. If you aren't sure you have a complaint that is covered under the Act, contact the Coalition.

Issues specific to landlord tenant relations fall under the *Residential Tenancy Act*.

Purchasing Property

It is discrimination to deny the opportunity to purchase a commercial or dwelling unit, land or an interest in land on the basis of any of the categories listed under "Finding A Home"

Open To Everyone

No one can deny a person accommodation, service or use of a facility that is customarily open to the public or vary the quality of service because of:

Race
Colour
Ancestry
Place Of Origin
Religion
Marital Status
Physical Or Mental Disability
Sex (including sexual harassment and pregnancy)

The Act exempts the category of sex when the maintenance of public decency is involved (i.e. men cannot use women's change rooms) and also exempts both sex and disability when they relate to the determination of premiums and benefits of life or health insurance.

Other Protection

Sexual Harassment: This is not something you have to put up with. Sexual harassment most commonly occurs in the workplace. It can take the form of sexual suggestions or jokes and may go as far as actual physical abuse. It is considered discrimination on the basis of sex and is an infringement of the Act.

Pregnancy: Discrimination against pregnant women is also considered sex discrimination. *The Human Rights Act* protects pregnant women in all of the above mentioned areas.

Discriminatory Publications: No one can publish or publicly display a notice, sign, symbol, emblem or other representation indicating discrimination against a person or class of person covered by the *B.C. Human Rights Act*. This is subject to the *Civil Rights Protection Act* which allows people to freely express opinions by speech or in writing.

Age: The Act protects against age discrimination in employment.

Public Facilities and Services

You are disabled and in a wheelchair. Upon entering a restaurant the manager tries to "shoo" you out because your wheelchair will take up too much space and scuff up his floor. You are a Native Indian looking for a hotel room. You see a vacancy sign on a hotel and go in to inquire about a room. The clerk claims they're all booked but as you leave you notice a white couple being told there are rooms available. Both these incidents are examples of human rights' violations. You

cannot be denied access to accommodation, services or facilities generally available to the public because of discriminatory policies or practices. The quality and condition of service also cannot be varied due to discrimination.

A Walk Through The System

Filing a Human Rights Complaint

Here is a step by step guide for filing a human rights complaint. As each complaint is unique, you may not need to go through all the steps. Usually you should file the complaint yourself. However in some cases a third party complaint is allowed. For example if the complainant is a child then a parent can file, or if the complainant is mentally disabled a guardian can file. You must file within six months of the incident of the discrimination although the Council may accept complaints after this deadline in special cases.

It's important to know that you are protected in your right to file a complaint. It is unlawful for anyone to evict, discharge, suspend, expel, intimidate, impose any penalty or otherwise discriminate against you because you have filed a complaint.

You should exhaust other avenues open to you before filing a complaint. For instance, file a grievance if you are in a union and your complaint is covered under a collective agreement. It is the employer's responsibility to

provide a workplace free from discrimination.

Before filing, prepare a list of the following information:

- a) The date(s) of the incident(s).
- b) The place where the incident occurred.
- c) The name, address, etc., of the person or establishment that discriminated against you.
- d) A description of the incident(s).

STEP ONE

To file a complaint contact your local Human Rights Branch. An *Intake Officer* will advise you as to whether or not it is under their jurisdiction. If you disagree with the advice and feel you have a valid complaint, ask the Intake Officer to forward it to the Human Rights Council for review.

It may take a year to sixteen months before your case is heard so it is important to keep a written record of each incident and to keep track of any witnesses. Keep copies of all written correspondence and records of all telephone conversations, meetings, etc. It is also a good idea to have thought out what solutions you might seek.

The following information will strengthen your position:

- 1) If anyone else has observed a discriminatory practice against you, or if anyone else has received the same discriminatory treatment, record this and try to get written statements from these witnesses.
- 2) Names, addresses, phone numbers of all witnesses.

- 3) If you have contacted any other agencies for help (unions, women's groups, immigrant centres, welfare workers, etc.) keep a written record of who you talked to, what was said, and what, if any, action was taken.

The Intake Officer will prepare your complaint which will now be referred to as the *Particulars Of Allegation*. This will then be handed over to the Human Rights Council. The Council may either dismiss the complaint or designate one member of the Council (*Council Designate*) to receive submissions from both sides of the case.

STEP TWO

Your complaint has now reached the point of investigation. The Council Designate will appoint a person from the Council to be the *Industrial Relations Officer (IRO)* to conduct the investigation. The Officer will go over the particulars of the allegation with the complainant. Make sure the IRO clearly understands your allegation. As part of the investigation the IRO will talk with your witnesses and to the *Respondent(s)* and any of their witnesses to get their side of the story. The IRO will submit all of the information regarding the complaint to the Council. At this point the Council prepares a summary of the investigation and may decide not to proceed for some of the following reasons:

- 1) They don't have the legal power to deal with your complaint. (i.e.) It would be better dealt with by another level of government or under

- another Act.)
- 2) Your complaint is based on facts that occurred more than six months before you filed your complaint.
- 3) They may decide that your information doesn't prove that discrimination occurred.

If the Council does decide to formally recommend that the case be dismissed, this response is sent to both the complainant and respondent who have ten days to dispute it in writing if necessary.

STEP THREE

After reviewing all the information presented to them, interviewing witnesses etc., the Council will do one of the following:

- a) Discontinue the complaint (usually done due to lack of evidence).
- b) Recommend a settlement agreeable to both parties. If your case proceeds past this point and is dismissed at a later stage you risk the loss of this settlement.
- c) If a settlement isn't possible, your case will be referred to the Minister of Labour with recommendations from the Council.
- d) The Council may decide to conduct its own hearing and order a settlement where it concludes that discrimination has occurred.

STEP FOUR

The *Hearing* will consist of one member (not the Council Designate) of the Council of B.C. Human Rights who is appointed to hear the case. You will need to

be represented by a lawyer at the Hearing. Human rights complainants are covered by legal aid and a list of lawyers skilled in human rights is available from the **Human Rights Coalition**. All members of the Council will participate in deciding your case. The Hearing will hear both sides of the complaint. A court recorder will be present to insure an accurate record of the proceedings. The decision won't be made at this hearing and you may have to wait several months or more for the outcome. The decision will be in writing and a full explanation of its contents will be given.

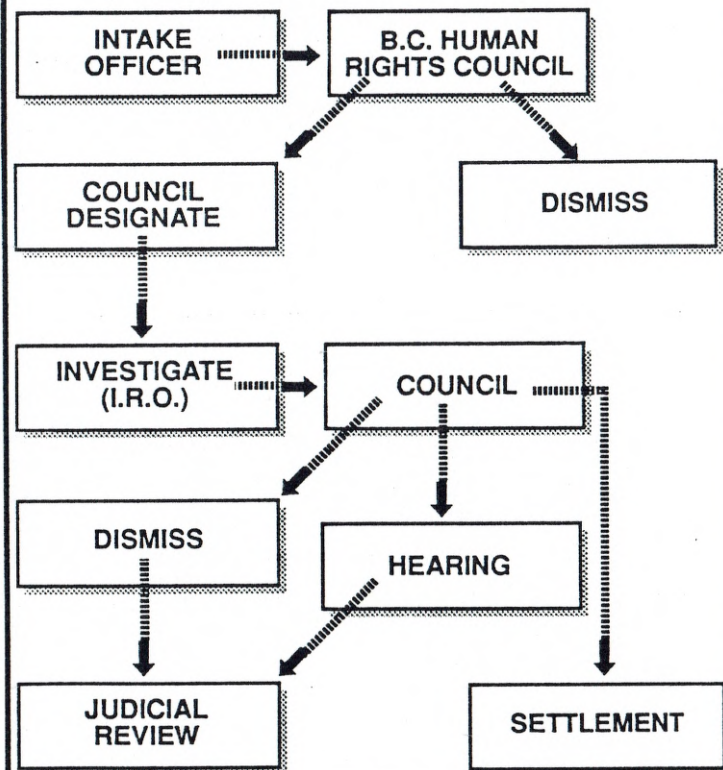
If you win your case settlement orders can include:

- a) An order that the guilty party stop the discriminatory practice, and
- b) Return to the victim the right or opportunity that was denied, and
- c) Award expenses or lost wages, and sometimes
- d) Order compensation of up to \$2,000 (for emotional damage)

STEP FIVE

The Act doesn't have an appeal process built into it but if you or the other party aren't satisfied with the decision of the Council or a Board of Inquiry, you can apply for a judicial review of the decision. Under a judicial review, a Supreme Court judge will be asked to review the decision and may reopen your case. You will also need a lawyer at this point.

Case Process Chart



What The Human Rights Coalition Can Do For You

You deserve to have your complaint dealt with fairly. The Coalition can help you untangle the red tape leading up to having your complaint heard and can attend Council hearings with you. Other agencies can also help. A system exists to protect your rights and uphold a standard for everyone in our province. Use it when you know your rights have been violated and help keep the rights we do have alive and well in British Columbia.



Graphic courtesy The New Internationalist

Glossary Of Human Rights Terms

APPEAL — To ask for a new decision to be made (no appeal process is in place under the present B.C. Human Rights Act).

B.C. COUNCIL OF HUMAN RIGHTS — A five member council that has responsibility for enforcing the B.C. Human Rights Act.

B.C. HUMAN RIGHTS ACT — Legislation that covers human rights in all provincially regulated businesses and agencies. It specifically protects rights in three areas; 1) Employment, 2) Accommodation, Services and Facilities customarily available to the public, and 3) Tenancy and Purchase of Property.

B.C. HUMAN RIGHTS COALITION — A non-governmental coalition of groups and individuals whose objective is

to better human rights conditions in B.C. through advocacy and education.

CANADIAN HUMAN RIGHTS ACT — Legislation passed in 1977 that covers all federally regulated businesses and agencies.

CANADIAN HUMAN RIGHTS COMMISSION — Established in 1977 by the Canadian Human Rights Act to deal with human rights complaints, issues and education.

COMPENSATION — Something given to make up for a loss (e.g. money for emotional or physical injury, or wage loss).

COMPLAINANT — The person who files a complaint.

DISCRIMINATION — To be treated differently/unjustly because you are a member of a

certain group (e.g. to be denied a job because you are a woman, to be denied housing because you are non-white, etc.).

HARASS — To be bothered repeatedly (e.g. unwanted physical touching).

HEARING — This is **STEP FOUR** of the complaint procedure where the allegation is formally heard.

INDUSTRIAL RELATIONS OFFICER (IRO) — Employees of the Ministry of Labour who may help to investigate human rights complaints.

INTAKE OFFICER — The person who receives the formal human rights complaint and advises you

as to whether or not the facts as presented constitute possible grounds for discrimination. The officer also may forward the complaint to the B.C. Human Rights Council for review.

MINISTRY OF LABOUR — The provincial government ministry responsible for human rights in B.C.

PARTICULARS OF ALLEGATION — The complainant's statement or claim that has yet to be proved.

RESPONDENT — The person or company who is charged with discrimination (e.g. employer, landlord, etc.).

Directory of Resource Agencies

Non-Governmental Agencies

B.C. Coalition of the Disabled
#211-456 West Broadway
Vancouver V5Y 1R3
875-0188

B.C. Human Rights Coalition
#107-96 East Broadway
Vancouver V5T 1V6
872-5638

#418-620 View

Victoria, B.C.

V8W 1J8 382-3012

Downtown Eastside Residents
Association

#4-9 East Hastings St.
Vancouver V6A 1M9
682-0931

MOSAIC

2nd Floor — 1720 Grant St.
Vancouver V5L 2Y7
254-9626

OASIS

8165 Main St.

Vancouver V5X 3L2
324-8186

Single Mother's Housing Network
6560 Gilbert Rd.
Richmond V7C 3V4
278-8033

Tenants' Rights Clinic
191 Alexander St.
Vancouver

9 a.m. — 12 p.m. Saturdays

Union of B.C. Indian Chiefs
200-73 Water St.

Vancouver V6B 1A1
684-0231

United Native Nations
#300-33 East Broadway
Vancouver V5T 1V4
879-2420

Vancouver Gay & Lesbian
Community Centre
1170 Bute St.

Vancouver V6E 1Z6
684-3303 or 684-6869

Vancouver Lesbian Connection
876 Commercial Dr.
Vancouver V5L 3W5
254-8458

Vancouver Persons With AIDS
(PWA) Coalition
#1-1170 Bute St.
Vancouver V6E 1Z6
683-3381

Mail to: Vancouver PWA Coalition
Box 136, 1215 Davie St.
Vancouver V6E 1N4

Vancouver Status of Women
#301-1720 Grant St.
Vancouver V5L 2Y7
255-5511

Government Agencies Employment Standards Office

BURNABY
Deer Lake Centre
4946 Canada Way
Burnaby V5G 4J6
299-7211

CHILLIWACK
45904 Victoria Avenue
Chilliwack V2P 2T1
795-8400

CRANBROOK
Room 101
117 10th Avenue South
Cranbrook V1C 2N1
426-1291

COURTENAY
Room 206, Court House
420 Cumberland Road
Courtenay V9N 2C4
334-1225

DAWSON CREEK
1201 103rd Ave.
Dawson Creek V1G 4J2
784-2390

KAMLOOPS
220-546 St. Paul St.
Kamloops V2C 5T1
828-4516

KELOWNA
301-1644 Richter St.
Kelowna V1Y 8N3
861-7404

NANAIMO
204-190 Wallace St.
Nanaimo V9R 5B1
755-2342

NELSON
Provincial Buildings
310 Ward St.
Nelson V1L 5S4
354-6550

PENTICTON
3547 Skaha Lake Rd.
Penticton V2A 7K2
492-1333

PRINCE GEORGE
Room 464, Plaza 400
1101 4th Ave.
Prince George V2L 3H9
565-6120

TERRACE
4548 Lakelse Ave.
Terrace V8G 1P8
638-3272

WILLIAMS LAKE
540 Borland St.
Williams Lake V2G 1R8
398-4478

British Columbia Council of Human Rights

VICTORIA
Parliament Buildings
Victoria V8V 1X4
Toll free: 1-800-663-0876
Local Area: 387-3710

VANCOUVER
406-815 Hornby St.
Vancouver V6Z 2E6
660-6811

*Canadian Human Rights Commission
(Federal)*
609 West Hastings St.
Vancouver V6B 4W4
666-2251