

Tip Sheet for Tenants

What can I do at the Landlord and Tenant Board to protect my human rights?

This tip sheet contains general information on what you can do to protect your human rights in the area of housing.

Contents

What is “discrimination”?	2
What is “harassment”?	2
Does the Ontario Human Rights Code protect my housing rights?...	3
Does my landlord have to make sure I have the same access to housing as other tenants?	5
What can I do if I think my landlord has violated my human rights?.	6
If I decide to apply to the Board, what do I do next?	8
The landlord got an eviction order against me and I think the order is wrong. What should I do?	11
Where can I get more help or information?.....	12

This tip sheet contains general information. It is not a substitute for getting legal advice about your particular situation.

Prepared by the Tenant Duty Counsel Program and funded by Legal Aid Ontario. To download this and other tip sheets for tenants, go to <http://www.acto.ca>

This tip sheet explains how the **Ontario Human Rights Code** protects your right to equal treatment and equal access to rental housing.

The Ontario Human Rights Code applies in certain protected “**areas**” such as housing and workplaces. It prohibits discrimination based on certain “**grounds**”, for example, age, race, sex, or disability.

In this tip sheet, “Code” refers to this law.

What is "discrimination"?

To “discriminate” against a person is to treat them differently or unfairly because of a certain characteristic of that person, for example, their religion, their sex, or, perhaps, their source of income. **Not all unfair conduct or unequal treatment is discrimination.** To be considered a human rights offence, the discrimination must be based on a characteristic or “ground” listed in the Code and in an “area” protected by the Code.

What is "harassment"?

“Harassment” is a type of discrimination. It means saying or doing something to someone even though you know, or should know, that your behaviour is unwelcome. To be considered a human rights offence, the harassment must include unwelcome comments or actions based on one or more of the “grounds” listed in the Code. Usually harassment involves repeated behaviour, but a single very serious incident can also be considered harassment.

Does the Ontario Human Rights Code protect my housing rights?

Yes. Housing is an “area” covered by the Code.

This means you have the right to equal treatment when buying, selling, renting, or being evicted from an apartment, house, condominium, or commercial property.

The Code protects you from discrimination and harassment based on any of these “grounds”:

- age
- ancestry, colour, race
- citizenship
- ethnic origin
- place of origin
- creed
- disability
- sex (including pregnancy and breastfeeding)
- sexual orientation
- gender identity or gender expression
- family status
- marital status (including single status)
- receipt of public assistance. This ground applies in the area of housing only.

The Code applies to landlords, people who work for a landlord, or other tenants in the place where you live or want to live.

Equal “access to housing” means more than just providing physical access by having ramps or wider doorways. It also means receiving fair and equal

treatment when you rent a place to live. For example, a landlord **cannot** refuse to rent an apartment to you because

- you have children (This would be discrimination based on family status.)
- you are new to Canada (This would be discrimination based on citizenship or place of origin.)
- you are on Ontario Works or ODSP (This would be discrimination based on receipt of public assistance or a disability.)

Nor can a landlord harass you because of your sexual orientation.

The Code also protects you from discrimination in other “areas”. They are

- workplaces
- contracts
- goods, services, and facilities, and
- membership in unions or occupational and professional associations.

For more information about your Code rights in these other protected areas, you can go online to the Human Rights Tribunal of Ontario at

<http://www.sjto.gov.on.ca/hrto> or to the Human Rights Legal Support Centre at www.hrlsc.on.ca.

Are there exceptions to the Code rules about discrimination in housing?

There are some exceptions to the rules about discrimination in rental housing. The Code **does not apply** if

- you have a “personality conflict” with the landlord or another tenant that is not connected to a Code ground, or
- you share a bathroom or a kitchen with the owner or the owner’s family. For example, an owner can refuse to rent to you because of your gender or race if you would be sharing a kitchen or bathroom with the owner or the owner’s family.

Does my landlord have to make sure I have the same access to housing as other tenants?

Yes. Landlords must remove barriers related to the Code that would prevent you from having equal access to housing. This is called a “**duty to accommodate**”. For example, if you use a wheelchair because of a physical disability, your landlord has a duty to make sure that you can get into the building where you live. To provide equal access, your landlord may have to build a ramp at the front entrance to the building or install an automatic door opener.

It is important that you ask your landlord for “accommodation”, and that you explain any special arrangements that you need. Although there are some exceptions, landlords will not be expected to make special arrangements for you if they do not know what your needs are.

You do not have to tell your landlord the details of your disability. You just have to say that you have a disability and explain what your needs are. Your landlord must keep your personal information private.

Is there a limit to what a landlord has to do to accommodate my needs?

Landlords are expected to provide equal access to housing even if it creates some difficulties for them. So, you can expect a landlord to “accommodate” your needs up to the point of “undue hardship”. This means that a landlord must make special arrangements for you unless these arrangements would cause very serious difficulties for the landlord.

What can I do if I think my landlord has violated my human rights?

If your landlord, or someone who works for your landlord, discriminates against you or harasses you based on one of the grounds listed in the Code, you can go to the Human Rights Tribunal of Ontario or the Landlord and Tenant Board.

1. The Human Rights Tribunal of Ontario

The Human Rights Tribunal of Ontario (the “Tribunal”) deals with claims of discrimination based on grounds listed in the Code. It has the power to hold hearings, make decisions, and order remedies.

You must apply to the Tribunal **within 1 year** of the day when the discrimination happened. If there was a series of incidents, you must apply within **1 year** of the last incident.

You can find more information about how to file an application with the Tribunal at www.sjto.gov.on.ca/hrto.

2. The Landlord and Tenant Board

The Landlord and Tenant Board (the “Board”) deals with disputes between landlords and tenants. The Board must consider the Code when it makes any decision about housing.

You can apply to the Board if your landlord, or someone who works for your landlord, interferes with your use or enjoyment of the place where you live by discriminating against you or harassing you based on grounds listed in the Code,
Or
not accommodating your special needs related to the grounds listed in the Code.

You can also apply to the Board if your landlord, or someone who works for your landlord, is harassing you for a reason that is not based on a ground listed in the Code.

You must apply to the Board within 1 year of the day when the discrimination happened. If the problem has stopped, you must apply within 1 year of when the problem ended. You can apply even if you have already moved out of the rental unit. If the problem is ongoing, you can apply to the Board even if the problem started over 12 months ago.

In most cases, you are allowed to apply to only one of these places. To find out which one you should apply to, get legal advice from the Human Rights Legal Support Centre or your local legal clinic. At the end of this tip sheet, there is information on how to contact the Centre and your local legal clinic.

Does the Landlord and Tenant Board have a duty to accommodate?

The Board must follow the Code when it provides services. This means that the Board has a “duty to accommodate” anyone with special needs related to any of the grounds listed in the Code. For example, if you are not from Canada and have difficulty understanding English or French, you can ask the Board to provide an interpreter to help you. Or, if you have a disability that may affect your use of any of the Board’s services, you can ask the Board for accommodation. You must tell the Board what kind of help you need.

You can get more information about asking the Board for accommodation at www.sjto.gov.on.ca/ltb or by contacting the Board at 1-888-332-3234.

If I decide to apply to the Board, what do I do next?

To apply to the Board about discrimination or harassment, you must fill out an **Application about Tenant Rights – Form T2** and give it to the Board. You can get the Application about Tenant Rights – Form T2 along with **T2 Instructions** from the Board or a ServiceOntario Centre. These forms are also available to download from the Board’s website at www.sjto.gov.on.ca/ltb. It costs \$50 to apply, but you may not have to pay if you can get a fee waiver. To find out if you qualify, fill in a **Fee Waiver Request** and give it to the Board with your application.

You can also file using **LTB e-file**. You can get more information on how to use LTB e-file at www.sjto.gov.on.ca/ltb.

You can use a Form T2 to ask the Board to deal with other problems with your landlord. There is some information on the Form, but you may need legal help.

Read both Form T2 and the T2 Instructions carefully before you begin, and go over your application again when you have finished filling it out.

On the page called **Request for Accommodation or French-Language Services**, tell the Board if you have any special needs related to the grounds listed in the Code. Describe what special arrangements you will need, for example, if you are not from Canada and you have difficulty understanding English or French, you may need an interpreter to help you participate in your hearing.

If you are having trouble completing the form, get legal advice before giving it to the Board. **The Board may dismiss or delay your hearing if it finds serious mistakes in your application.** At the end of this tip sheet, there is information about where to get legal help.

What can I do if my landlord is evicting me because of a ground listed in the Code?

Your landlord cannot evict you for any of the grounds listed in the Code. For example, your landlord cannot evict you because you are pregnant or on Ontario Works.

If your landlord has applied to evict you and you believe that the real reason is because of discrimination based on a ground listed in the Code, get legal help right away. At the end of this tip sheet, there is information about where to get legal help.

What should I say at the eviction hearing?

Before your hearing, you should think about what you want to say and what evidence you want to give.

- Write down everything that happened and when.
- Make a list of the evidence you want to present.
- Make a list of any witnesses you want to speak at the hearing and think about what you want them to say.

Make sure to bring all your evidence to the hearing. Evidence could include:

- requests to the landlord for accommodation
- photos or videos
- letter from your doctor, social worker, or caseworker
- letters, notes, or forms from your landlord, and
- witnesses.

Bring **3 copies** of any documents you want to use at your hearing: One copy is for you, one for your landlord, and one for the Board member who is hearing your case.

Bring prints of any photos you want to show as evidence. If you want to play a video, bring your own laptop or ask the Board ahead of time to provide a computer at your hearing.

Usually the police, building inspectors, and other officials cannot go to a hearing as witnesses unless they are “summonsed”. For information about how to summons a witness, contact the Board or your community legal clinic.

The Board will decide the case based on all the evidence that you and your landlord present at the hearing. If the Board decides the real reason the landlord

wants to evict you is because of discrimination based on a ground listed in the Code, the Board may dismiss your landlord's application.

The landlord got an eviction order against me and I think the order is wrong. What should I do?

If you believe the Board has made a serious error in making its decision, you can apply to the Board to review the order to evict you. In other words, you can ask the Board to look at the case one more time.

To request a review, complete a **Request to Review an Order** form and give it to the Board. You must request a review within **30 days** from the date of the decision. It costs \$55 dollars to file this request, but you may not have to pay if you can get a fee waiver.

You get only one chance to ask for a review of the decision to evict you, so you should get legal advice before completing the form. At the end of this tip sheet, there is information on where to get legal help.

Is there anything else I can do to challenge a Board decision?

You have the right to appeal to the Divisional Court if you believe there is an **error of law** in the Board's decision. You have **30 days** from the date of the Board's decision to do this.

Going to Divisional Court can be very expensive. If you lose, you could be made to pay your landlord's legal costs. That could be thousands of dollars.

Get legal advice before going to court.

Where can I get help or more information?

Tip sheets for tenants

If you want to apply to the Board, you will find more information in the tip sheet called *What can I do if my landlord does not do repairs or respect my legal rights?*

Are there mistakes in the Board's decision to evict you? If so, you will find more information in the tip sheet called *I think my order from the Landlord and Tenant Board is wrong. What should I do?*

The Human Rights Legal Support Centre

If your situation is related to the Ontario Human Rights Code, the Human Rights Legal Support Centre (HRLSC) can give you legal help filling out applications to the Human Rights Tribunal of Ontario and legal advice about how to address the discrimination that you experienced.

You can contact the HRLSC at www.hrlsc.on.ca or call

Toll-free. 1-866-625-5179

Toronto area..... 416-597-4900

Toll-free TTY..... 1-866-612-8627

TTY, Toronto area. 416-597-4903

Their lines are open: Monday, Tuesday, Wednesday, and Friday: 9 am to 5 pm and Thursday: 2 pm to 6 pm **Phones are busiest on Thursdays between 2 pm and 4 pm.*

Community legal clinics

Across Ontario, legal clinics give free legal advice to people with low incomes.

Contact your local community legal clinic for help with landlord and tenant matters.

To find the community legal clinic for your area, go to Legal Aid Ontario's website at www.legalaid.on.ca. Click on "Contact LAO" then on "Community legal clinics". Or call Legal Aid Ontario:

Toll-free. 1-800-668-8258
Toronto area..... 416-979-1446
Toll-free TTY..... 1-866-641-8867
TTY, Toronto area. 416-598-8867

Centre for Equality Rights in Accommodation

The Centre for Equality Rights in Accommodation (CERA) is an organization dedicated to promoting human rights and ending discrimination in housing. If you have experienced discrimination in housing, you can contact CERA at:

Toll-free. 1-800-263-1139 ext. 1
Email intake@equalityrights.org

You can find more information about CERA at www.equalityrights.org/cera/

Other sources of information

You can find information for tenants online at www.yourlegalrights.on.ca and at www.stepstojustice.ca.

In Toronto, you can also call the Tenant Hotline at 416-921-9494 for free information and referrals to your local legal clinic.