



A Guide to the Canadian Human Rights Act



The Canadian Human Rights Commission deals with allegations of discrimination against federally regulated employers, unions and service providers. When possible, the Commission encourages parties to try to resolve such allegations through alternative dispute resolution (ADR). The Commission can help parties resolve disputes informally, as soon as they are brought to its attention, or after a formal complaint has been filed. If the parties cannot resolve the matter themselves, the Commission may investigate the allegations and ask the Canadian Human Rights Tribunal to hold hearings.

What does “discrimination” mean?

“Discrimination” means harassing someone or putting that person at a disadvantage because of who he or she is. The *Canadian Human Rights Act* prohibits discrimination based on a person’s race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability or conviction for which a pardon has been granted.

Examples of discrimination could include the following:

- refusing to hire someone because of his or her age;
- denying a promotion to a female employee;

- having an office that is not accessible to people in wheelchairs;
- using racist language in the workplace;
- requiring job applicants to have Canadian experience;
- refusing to hire someone who cannot work certain days for religious reasons when his or her absences would not cause the employer undue hardship; or
- paying employees in a female-dominated job less than those in a male-dominated job of equal value.

How does the Act protect me?

Canadian citizens, landed immigrants and visitors are protected from discrimination by federally regulated organizations. These organizations include federal government departments, agencies and Crown corporations; banks; interprovincial transportation companies; and telecommunications service providers.

The Commission cannot handle disputes involving provincial or territorial government departments, retail stores, schools, hospitals or transportation companies that are not interprovincial. Provincial or territorial human rights bodies deal with disputes involving these organizations.

The Act allows for special programs designed to end long-standing disadvantages and to prevent them from happening again. A special program can be something as simple as a training program for workers from a disadvantaged group, or a comprehensive employment equity plan.

The Act also provides for fines of up to \$50,000 for threatening, intimidating or discriminating against an individual who has filed a complaint, or for hampering an investigation. The Commission can also investigate and deal with complaints of retaliation against persons who file a complaint.

What does the Canadian Human Rights Commission do?

The Commission administers the *Canadian Human Rights Act* and ensures that the principles of equal opportunity and non-discrimination are followed in all areas of federal jurisdiction. As part of its duties, the Commission:

- helps parties resolve allegations of discrimination;
- investigates complaints;

- audits employers under the *Employment Equity Act*, to help achieve equality in the workplace for women, persons with disabilities, Aboriginal people and members of visible minorities;
- works with employers to promote workplace cultures based on respect for human rights, prevent discrimination and develop good dispute resolution processes;
- monitors the trends in Canadian society and conducts research on important and emerging human rights issues; and
- conducts information programs to promote public understanding of human rights, of the Act, and of the role and activities of the Commission.

How does the Commission deal with allegations of discrimination?

Canadians, landed immigrants and visitors who believe that a federally regulated organization has discriminated against them can ask the Commission for help. The Commission has different ways of dealing with disputes, but most cases follow this process:

- First, the Commission decides if it is the right agency to handle the matter. If not, the inquirer is referred to another agency that might help.

- If the Commission is the right agency, it encourages the parties to resolve the allegations through alternative dispute resolution. ADR refers to a wide range of processes designed to help parties discuss and resolve their problems. It includes informal and formal processes, such as mediation and conciliation.
- The parties can try to resolve the dispute through ADR before or after a formal complaint is filed.
- If the parties reach a settlement, they usually sign an agreement that sets out what each party has agreed to do to resolve the matter. The commissioners review the agreement to ensure it is fair and appropriate from a human rights perspective.
- If the parties cannot resolve the matter, and the inquirer has filed a complaint, the case is turned over to an officer who will review the complaint to determine next steps. A file can be referred for preliminary assessment or investigation.

- A preliminary assessment is an expedited fact-finding process which provides the parties with an assessment of the strengths and weaknesses of the case. It can lead to a settlement, a referral to investigation or the presentation of a report to the Commission.

- An investigation is a more formal fact-finding process. The investigator acts in the public interest by impartially gathering and analyzing relevant information and ensuring that each party has the opportunity to express its point of view. The investigator then prepares a report on the findings for the Commission.
- After reviewing an assessment or investigation report, the Commission can dismiss the allegations if the evidence does not support them; appoint a conciliator to help the parties try to reach a settlement; or send the matter to the Canadian Human Rights Tribunal for a hearing.
- The Tribunal conducts hearings into the complaint and makes a decision. It will either dismiss the complaint or order a remedy. That decision can be the subject of a judicial review upon application by either party to the Federal Court of Canada.
- That decision can in turn be appealed by either party under certain circumstances up to the Supreme Court of Canada.

What kind of remedy could I receive?

The purpose of the *Canadian Human Rights Act* is not to punish people. Instead, it is designed to resolve human rights disputes and prevent them from happening again. If the parties reach a settlement, they can agree to whatever solutions seem appropriate to them, as long as the public interest is considered. Solutions might include apologies, training, replacement of lost wages, reinstatement in a position, or financial compensation. If the case involves a discriminatory policy, the terms of the settlement could include changing the policy or putting new procedures in place.

If the case is not settled and the Commission asks the Tribunal to hold a hearing, the Tribunal decides if discrimination occurred. It can then order the respondent to provide one or more of the following to the victim:

- the rights and privileges that were denied, such as a job, a service or an employment benefit;
- financial compensation for lost wages or expenses related to the discrimination;

- financial compensation for the victim’s pain and suffering; or
- special compensation, if it decides that the discrimination was wilful or reckless.

The Tribunal can also order measures to prevent the discrimination from occurring again, such as changing a policy or putting new procedures in place.

FURTHER INFORMATION

For information on all aspects of the dispute resolution process, please visit the Commission’s website at www.chrc-ccdp.gc.ca, or contact the following.

The Commission’s regional offices: Halifax, Montréal, Toronto, Edmonton and Vancouver, toll free, at 1-800-999-6899.

The Commission’s National Aboriginal Initiative: Winnipeg, toll free, at 1-866-772-4880.

The Commission’s national office: 344 Slater Street, 8th floor Ottawa, Ontario K1A 1E1 Telephone: (613) 995-1151 Toll free: 1-888-214-1090; TTY: 1-888-643-3304.

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