

Guide to:

Human Rights in Ontario

See also: LGBTQI2S Legal Concerns



What is discrimination?

Discrimination is when someone or a group of persons is treated unfairly or unequally. Harassment is a type of discrimination and involves someone saying or doing things to offend or humiliate someone else. The law does not protect from discrimination in all situations; for example, the law does not usually protect someone from discrimination in their personal relationships with friends or family.

When does the law protect someone from discrimination?

The *Ontario Human Rights Code* (“the Code”) is the law that sets out when someone is protected from discrimination in Ontario.

The Code protects against discrimination in the following “**social areas**”:

- Employment
- Housing (such as renting an apartment)
- Goods, services, and facilities (such as in stores, restaurants, hospitals, and police)
- Contracts (such as an agreement to buy a bicycle or a cell phone)
- Membership in a union or a professional association for your job

What kind of discrimination does the Code protect people from?

The Code protects people if they experience discrimination connected to one of the

below “**grounds**”:

- Place of origin (where you come from)
- Citizenship
- Ethnicity (race, biological and cultural background)
- Disability
- Creed (religion / beliefs)
- Sex, including sexual harassment and pregnancy
- Sexual orientation*
- Gender identity*
- Gender expression*
- Family status
- Marital status
- Age
- Receipt of public assistance, such as Ontario Works - this applies to housing only
- Record of offences – this only includes convictions where a pardon or record suspension has been granted; and this also only applies to employment

*** See also JFCY’s Guide to: LGBTQI2S Legal Concerns**

Is it discrimination if I am treated unfairly because of other people in my life?

Being treated unfairly or unequally because of other people in your life is discrimination if the other people are identified by one of the grounds in the Code. For example, a landlord cannot refuse to rent you an apartment because your parents are from a different country (“place of origin”) or because of the “gender identity” of your girl-/boy-friend/partner.

What is an “accommodation”?

“Accommodation” is the word used to describe the different or special arrangements that must be made by an employer, service provider or landlord to ensure that someone is not treated unfairly or unequally. For example, accommodating a student in a wheelchair by building a wheelchair access ramp at school, or accommodating a student with a learning disability by giving them more time to write tests or hand in their homework.

Do I always have to be accommodated?

Employers, service providers and landlords must always accommodate you unless they can show it would cause them “undue hardship”. Undue hardship means that it would be too difficult or expensive to accommodate you. Undue hardship is a complex legal principle. If someone is telling you that they cannot accommodate you for this reason, you should talk to a lawyer. ***Options for legal assistance and advice are listed at the end of this pamphlet.***

How do I make a claim of discrimination?

To make a claim, fill out an application form and submit it to the Human Rights Tribunal of Ontario (the “HRTO”). You can:

- apply on-line or download the form at <http://www.sjto.gov.on.ca/hrto/forms-filing/>
- or call the HRTO for a form to be sent to you in the mail: 1-866-598-0322

Is there a time limit for making an application?

Yes, you must submit your application within one year of the incident that you are complaining about. If there were multiple incidents that are related to each other, then you must complain within one year of the last incident. If you miss the deadline, you can ask the HRTO to let you submit the application anyway. This will usually only be allowed if there is a good reason for missing the deadline. Speak to a lawyer if you have missed the deadline and want to make a claim.

What happens after I submit my application?

After you submit your application, the person or organization you complained about will be given a chance to submit a “response”. That other person or organization is called the “Respondent”. The Respondent must give you a copy of their response. After the Respondent has submitted their response, the HRTO will usually ask you if you want to try “mediation”.

What is “mediation”?

Mediation is a process where you and the Respondent meet with someone from the HRTO (the “mediator”) to discuss what happened and to see if you can agree on how to resolve your claim of discrimination.

This is a voluntary part of the process. You do not have to try mediation. You do not have to agree to anything at mediation and no one can force you to agree to anything at mediation.

If you and the Respondent come to an agreement at mediation, your case will end. This is called a “settlement”.

If you do not reach an agreement, then your case will be scheduled for a “hearing”.

What is a “hearing”?

A hearing is similar to a trial. It is an opportunity for you and the Respondent to tell the HRTO about your case. You will be allowed to give the HRTO evidence about what happened and about how it affected you. The Respondent will also be allowed to give evidence.

Evidence can be physical items such as documents and can also be from people (called “witnesses”) who come to the hearing to tell the HRTO what they know. At the end of the hearing you will get a chance to tell the HRTO why you think there was discrimination and what you think needs to happen to make things right. The Respondent will also get to tell the HRTO what they think about the incident(s).

Can someone help me with this?

You can be represented by a lawyer or a paralegal. If you do not have a legal representative, you can ask to have someone else be with you at a mediation and/or the hearing for support.

What things might happen before a hearing starts?

Before the hearing, the HRTO may contact you and the Respondent to ask about how to accommodate any special needs you may have at the hearing, or to see if there is any way to make the hearing run faster or more smoothly. For example, if you and the Respondent agree about certain things but disagree about other things, then the HRTO can plan to focus the hearing on the things you disagree about. The HRTO may also discuss your evidence and witnesses. These types of interactions with the HRTO are called “case assessments”.

Who is in charge at the hearing? Who makes the decision?

The hearing is run by a decision maker from the HRTO. The decision maker of the HRTO can be a Vice Chair, a Member, or an adjudicator. That person is like the judge in a court – they get to control how the hearing goes, including how the evidence is given.

That person is also the one who makes the decision about whether your application is successful or not.

If I am successful at the hearing, what might I get?

If you are successful, the adjudicator might tell the Respondent to pay you money. The adjudicator might also tell the Respondent to do specific things such as give you your job back, change the policies of the organization, or hold human rights training sessions for staff at the organization.

What if I don't agree with the decision?

In some cases, such as when there is new evidence that was not available at the hearing and you do not agree with the outcome, you can ask the HRTO for a “reconsideration”. A reconsideration is when the HRTO looks at your case again and figures out whether the correct decision was made in the first place.

In cases where you are not allowed to ask for reconsideration, you can go to a court and apply for a “judicial review”. The law about judicial reviews is complicated. You should talk to a lawyer about whether you should ask for a judicial review.

Is the HRTO the only place where I can complain about discrimination?

Other tribunals and courts will often allow you to complain about discrimination at the same time as another related issue. However, if you complain somewhere else before you complain to the HRTO, the HRTO might decide to not hear your case or the HRTO might decide to delay your case until the other decision is finalized. If you are thinking about complaining to more than one place, you should get legal advice about your options - *see back of pamphlet for some options*.

Where can I get more information about the HRTO?

The HRTO is part of the Social Justice Tribunals of Ontario. More information is available on their website: <http://www.sjto.gov.on.ca/hrto/>

FOR HELP FINDING A LAWYER:

Human Rights Legal Support Centre - www.hrlsc.on.ca 1-866-625-5179

Justice for Children and Youth - www.jfcy.org, 416-920-1633 or 1-866-999-5329

Services for young people under 18 or homeless youth under 25

Lawyer Referral Service - www.lsuc.on.ca/lrsr, receive up to 30 min free advice.

Community Legal Clinics - www.legalaid.on.ca, locate and contact the clinic closest to you

OTHER SERVICES:

Kids Help Phone - www.kidshelpphone.ca, 1-800-668-6868, phone and online support

211 Ontario - www.211Ontario.ca, dial 211 from any phone

Organizations should feel free to add local resources:

This pamphlet gives general information only.
Speak to a lawyer about your situation. Oct 2018.



55 University Ave, Suite 1500
Toronto, Ontario M5J 2H7
416-920-1633 or 1-866-999-5329

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