

HUMAN RIGHTS

WHAT ARE HUMAN RIGHTS?

The term “human rights” is used in various ways. This leaflet will use it to refer to legally protected equality rights in Manitoba. There are three particularly important human rights laws affecting Manitobans: *The Manitoba Human Rights Code*, the *Canadian Human Rights Act*, and the *Canadian Charter of Rights and Freedoms* (“the *Charter*”). Many collective agreements (employment contracts covering employees in unionized workplaces) also contain clauses that protect certain human rights.

ARE ALL RIGHTS HUMAN RIGHTS?

People sometimes use the term “human rights” to refer to all kinds of legally protected rights. For example, the *Charter* includes rights to freedom of expression and freedom of assembly. Rights like these are often called “civil liberties”. This leaflet will use “human rights” to mean legally - protected equality rights. In simple terms, there are laws protecting certain minority groups against discrimination in things like employment, housing and services provided to the public. For example, if your employer fires you because you get pregnant, or a landlord refuses to rent to you because of your ethnic origin, your human rights have been violated and you have certain legal remedies.

WHAT KIND OF DISCRIMINATION IS NOT ALLOWED?

The major areas of human rights protection are employment, housing and public services. The most common human rights complaints come in the area of employment (employers discriminating against employees). Some complaints deal with housing (landlords discriminating against tenants). A few complaints deal with public services (such as businesses discriminating against customers).

Human rights laws don’t deal with completely private disputes. For example, if someone refuses to be your friend because of your ethnic background, that is unpleasant, but it is not a violation of human rights laws.

A lot of human rights complaints deal with disability (such as an employer failing to reasonably accommodate a disabled employee). Some complaints deal with ancestry, race, national origin or ethnic background. Other prohibited grounds of discrimination include religion, age, sex (including pregnancy), sexual orientation, marital or family status, source of income, and political belief.

UNIONIZED WORKPLACES

If you have a union, and you think your employer has violated your human rights, contact your union immediately. The union might be able to file a grievance for you under the non-discrimination clause of your collective agreement. Don’t delay. Many collective agreements have short time limits for filing grievances.

HOW CAN THE MANITOBA HUMAN RIGHTS CODE HELP ME?

The Manitoba Human Rights Code (“the *Code*”) is a law passed by the provincial government. It says that it is wrong to discriminate against you because of your ancestry, national origin, ethnic background, religion, age, sex (including pregnancy), sexual orientation, marital or family status, source of income, political belief, or mental or physical disability. Although it is not actually mentioned in the *Code*, the Manitoba Human Rights Commission currently accepts complaints of discrimination on the basis of gender identity.

The Manitoba Human Rights Commission is an organization funded by the provincial government, but independent from the government. It provides education and information about human rights, and accepts complaints under the *Code*. For more information about the Commission, check out its website (www.manitobahumanrights.ca).

If you feel your rights under the *Code* have been violated, you can call the Commission (which has offices in Winnipeg, Brandon and The Pas). Don’t delay. Though there are exceptions, usually complaints have to be filed within six months. If you wait too long, it may be too late to file a complaint.

You don’t have to hire a lawyer to file a human rights complaint (although you are free to hire one at your own expense if you want).

If it appears that you might have a possible complaint under the *Code*, the Commission will ask you and the Respondent (the party you are complaining against) if you want to try informal mediation. If you both agree, Commission staff will talk to both parties and see if they can agree on a quick way to settle their disagreement. If informal mediation doesn’t work, the complaints process will start. Commission staff will explain the process. There might eventually be a formal hearing in front of an adjudicator (like a judge). The adjudicator has broad powers. For example, if your employer has violated the *Code* by firing you, the adjudicator can order the employer to give you your job back. Compensation (money) can also be ordered. You can read past decisions of Manitoba adjudicators on the Commission website.

HOW CAN THE CANADIAN HUMAN RIGHTS ACT HELP ME?

The *Canadian Human Rights Act* is a law passed by the federal government. Canada’s constitution splits power between the federal and the provincial governments. Most workplaces are under provincial jurisdiction. That means that *The Manitoba Human Rights Code* applies to most Manitoba workplaces.

But a few kinds of workplaces (federal government, federal Crown corporations, banks, airlines, railways, phone companies, TV and radio stations, grain elevators and a few other kinds) are under federal jurisdiction. That means that, even though the workplace may be in Manitoba, *The Canadian Human Rights Act* applies.

The *Canadian Human Rights Act* is administered by the Canadian Human Rights Commission, which no longer has an office in Manitoba. The office that looks after Manitoba is now located in Edmonton, but the Commission has a toll-free phone number (1-800-999-6899).

If you work in a federal-jurisdiction workplace and feel you might have a human rights complaint against your employer, call the Commission. Don’t delay. Though there are exceptions, most complaints have to be filed within a year. You don’t need a lawyer to file a complaint. The Commission will explain the process. The Commission’s website (www.chrc-ccdp.ca) is a good source of information.

WHAT IF I THINK I'M BEING HARASSED?

If you think you are being harassed at work because of your sex, race or one of the characteristics listed in *The Human Rights Code*, you might have a valid human rights complaint. If you have a union, talk to a union representative immediately. The union might be able to file a grievance for you. Don't delay. There are time limits for filing grievances.

If you don't have a union, and it is a co-worker who is harassing you, tell the employer. You can only file a human rights complaint against the employer, not against a co-worker. If you tell the employer and the employer doesn't take reasonable steps to stop the harassment, you might have a valid complaint against the employer.

If you think you have a valid complaint, contact either the Manitoba or the Canadian Human Rights Commission. Don't delay. Though there are exceptions, the time limit for filing a complaint is six months (provincial) or one year (federal). If you're not sure if your workplace is provincial or federal, call either Human Rights Commission within six months. Their staff will advise you if your workplace is actually federal, and you will still be able to file a complaint in time.

HOW CAN THE CHARTER OF RIGHTS AND FREEDOMS HELP ME?

The whole *Charter* can be found at www.charterofrights.ca. The *Charter* is part of the Canadian Constitution. All federal, provincial and municipal laws have to comply with the *Charter*. If they don't, a court can "strike down" any law that violates the *Charter* (declare that the law is void).

The *Charter* only applies to laws and government action. It doesn't apply to private disputes, such as disputes between employees and employers, or tenants and landlords.

Section 15 of the *Charter* protects equality rights. It says that governments can't pass laws that discriminate on the basis of things like race, national or ethnic origin, colour, religion, sex (including pregnancy), age, sexual orientation or disability.

If you think a law violates your *Charter* rights, you can go to court to challenge the law. Though the court won't force you to hire a lawyer, it will be difficult if you don't have one. In general, Legal Aid does not cover this sort of legal action.

However, there is an organization called the Public Interest Law Centre (www.publicinterestlawcentre.ca), which is a branch of Legal Aid Manitoba. The Centre's lawyers will take on a small number of *Charter* cases for free. The cases have to raise important, new legal issues that haven't already been dealt with by the courts. If you think you have an important, new *Charter* issue to raise, you can call the Centre (985-8540). Remember: the Centre's lawyers can only take a small number of cases, and they do not have to accept your case.

OTHER RIGHTS

Sometimes, no human rights laws have been broken, but you might have other legal rights. For example, maybe you could file a complaint against your landlord with the Residential Tenancies Branch (945-2476 or toll-free 1-800-782-8403). Maybe you could file a complaint against your employer with the Manitoba Employment Standards Branch (945-3352 or toll-free 1-800-821-4307). A lawyer can help you sort out these issues.

WHERE CAN I GO FOR HELP OR MORE INFORMATION?

Manitoba Human Rights Commission

Winnipeg Phone: (204) 945-3007

Brandon Phone: (204) 726-6261

The Pas Phone: (204) 627-8270

Toll Free: 1-888-884-8681

TTY: 1-888-897-2811

Website: <http://manitobahumanrights.ca>

Canadian Human Rights Commission

Toll free: 1-888-2140-1090

TTY: 1-888-643-3304

Website: <http://www.chrc-ccdp.ca>

Public Interest Law Centre

Phone: (204) 985-8540

Toll Free: 1-800-261-2960

Website: <http://www.publicinterestlawcentre.ca>

Manitoba Association for Rights and Liberties

Phone: (204) 947-0213

Website: <http://ww.marl.mb.ca>

Law Phone-In & Lawyer Referral Program

Phone: (204) 943-2305

Toll Free: 1-800-262-8800

(A program of Community Legal Education Association. Call for legal information, and in appropriate circumstances, a referral to a lawyer or law-related agency).



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