

Human Rights in British Columbia

April 2003
(Contacts Updated June 2006)

DISABILITY DISCRIMINATION

What does the B.C. Human Rights Code Say about Disability Discrimination?

The British Columbia Human Rights Code says you cannot be discriminated against because you have a disability. Your disability may be physical or mental, visible or non-visible. The term "disability" includes:

- mental illness
- developmental delay
- learning disability
- drug or alcohol addiction
- HIV/AIDS

The Code also protects you if you are treated differently because you are perceived by others to have a disability, even though you do not.

The Code protects you from disability discrimination in a range of areas including:

- employment (includes hiring, firing, wages or other terms of employment)
- tenancy (renting a place)
- public services and facilities (such as restaurants, government services, hospitals or schools)

Employment

Disability discrimination often occurs in the area of employment. It is important that you know:

- An employer cannot advertise a job in a way that discriminates against you because you have a disability.
- When you apply for work, the employer must evaluate you based on your ability to perform the essential parts of the job, rather than assuming you cannot do the job because of your disability. You cannot simply be denied the position because you have a disability.
- An employer cannot discriminate against you regarding any terms or conditions of employment because you have a disability. You

have a right to the same wages, hours of work and benefits as other employees doing the same job.

- You may already be working when you become disabled. An employer cannot fire you, lay you off or demote you because of your disability, unless you can no longer perform the essential components of your job.

Duty to Accommodate a Person with a Disability

An employer or service provider has a duty to reasonably accommodate your disability up to the point of "undue hardship." In determining whether accommodation short of "undue hardship" is possible, a number of factors should be considered, including:

- the overall cost of the accommodation
- the size of the employer's work force
- the impact on a collective agreement
- the impact of accommodation on the safety and health on employees

Accommodating your disability can mean different things in different situations. It may mean your employer must provide you with additional training before you start the job. It may mean your employer should adjust your work schedule, modify or purchase new equipment to allow you to do the job or restructure the job duties. Accommodation may even require you to be given a more suitable position.

Unions are also expected to play a role in accommodating your disability. The union will need to consider both your situation and the rights of other workers under the collective agreement when deciding how best to accommodate your disability.

Bona Fide Occupational Requirement

An employer can refuse to hire you if the job has specific or "bona fide," occupational requirements (BFOR) which cannot be modified to accommodate

your disability. For example, the job may require you to climb ladders regularly. If you are unable to do this because of your disability, the employer may have a right to refuse to hire you. However, the employer must be able to prove the job requirements are reasonable, necessary and cannot be modified without experiencing undue hardship.

Public Services and Facilities

As a disabled person you have the right to have access to all public facilities and to receive services from:

- restaurants, movies, malls, stores and other places of business
- government offices such as social services, health centres and licensing agencies
- buses, taxicabs and other public transportation
- educational facilities such as schools, colleges and universities

There may be times when you are refused access to the facilities and services listed above because of your disability. The service provider has to show that it has a good reason to deny you access because it would cause the service provider "undue hardship" to accommodate your needs.

For example, a university refused to provide a deaf student with a sign language interpreter because it was "too costly." The deaf student filed a complaint alleging the university had not fully explored how it could accommodate his disability short of "undue hardship." The university subsequently changed its policy and now provides deaf students with sign language interpreters.

Housing

A landlord, including a co-op housing association, cannot refuse to rent you an apartment or a house because you have a disability. A landlord cannot charge you a higher rent or a higher security deposit because of your disability or treat you differently from non-disabled tenants.

If you are already renting and you become disabled, the landlord cannot evict you because of your disability.

A landlord has a responsibility to accommodate your disability up to the point of "undue hardship." (E.g., constructing a wheel chair ramp to gain access to the building may be unreasonably expensive.)

No one can refuse to sell you a house or condominium because of your disability.

What should I do if I have been discriminated against because of my disability?

If you believe you are being discriminated against because of your disability consider taking the following steps:

- If discrimination happens at work, tell the employer what happened and ask them to do something about it. You should file a complaint at your workplace or a grievance with your union.
- If discrimination happens in your apartment building or in a public facility, ask the landlord or manager to address your concerns.
- Keep a record of the date, place, time and description of the discrimination incident as well as the name and address of the person discriminating against you and the names of any witnesses.
- File a human rights complaint with the BC Human Rights Tribunal. Services provided by the Tribunal are free.

Contact information

Human Rights Tribunal

Suite 1170 - 605 Robson Street
Vancouver BC V6B 5J3
Phone: (604) 775-2000
Toll Free (in B.C.): 1-888-440-8844
TTY (for hearing impaired): (604) 775-2021
E-mail: BCHumanRightsTribunal@gov.bc.ca
Web: www.bchrt.gov.bc.ca

BC Human Rights Clinic

C/O BC Human Rights Coalition
Suite 1202-510 West Hastings St.
Vancouver, BC, V6B 1L8
Phone: (604) 689-8474
Toll Free: 1-877-689-8474
E-mail: info@bchrcoalition.org
Web: www.bchrcoalition.org

Ministry of Attorney General Strategic Planning and Legislation Office

11th Fl 1001 Douglas Street
PO BOX 9286 STN PROV GOVT
Victoria V8W 9J7
Phone: (250) 356-9666
TTY: Please call Enquiry BC: 1-800-661-8773
Web: www.ag.gov.bc.ca/human-rights-protection