



**Northwest Territories
Human Rights Commission**

Human Rights and Housing

Write:
PO Box 1860
Yellowknife, NT X1A 2P4
E-mail: info@nwthumanrights.ca
Fax: 867-873-0357

Call:
Toll Free: 1-888-669-5575
Yellowknife: 867-669-5575

Visit:
Main Floor, Laing Building, 5003-49th Street
(Entrance on Franklin Street.)
Web: www.nwthumanrights.ca

Contents

Introduction	3
Landlords' Rights	4
Tenants' Rights	4
Housing advertisements	4
Tenancy Application Questions	5
The Duty to Accommodate	7
Harassment	9
Special Programs & Social Housing in the Northwest Territories	9
Frequently Asked Questions	10
Complaint Process	11

These guidelines identify key areas of concern for landlords and tenants. However, it is not comprehensive, nor is it a legal document. For further information please refer to the Human Rights Act or contact the Commission. Contact and website information is listed at the end of this document.

To obtain a copy of Commission publications, please contact the Commission. All publications are also on the website at: www.nwthumanrights.ca

The Vision of the NWT Human Rights Commission

We envision a North at peace with its diversity where everyone is safe, confident, and respected on their journey.

Our Mission

The NWT Human Rights Commission will:

- promote human rights through education and advocacy;
- strive for understanding and acceptance of human rights by all through leadership and partnerships; and,
- provide a complaint process that is accessible, timely and fair.

Introduction

The right to equality is protected in all areas of housing. This means equal access to housing and equitable treatment while renting housing.

The *Human Rights Act* prohibits discrimination on the basis of:

- race, colour, ancestry, place of origin, ethnic origin, nationality
- sex, sexual orientation, gender identity
- family or marital status, family affiliation
- social condition
- religion, creed
- political belief or association
- pardoned criminal conviction
- disability
- age

This guide will refer to the above personal characteristics as “protected grounds.”

Section 12 of the *Act* applies to landlords, property management companies, public housing, and property managers (“landlords”).

The *Act* says that landlords cannot discriminate on the basis of protected grounds. For example, landlords cannot discriminate when deciding:

- who to rent to;
- how much to charge for damage deposits and rent;
- who to evict; or,
- any other term or condition of housing.

The *Act* also says that landlords cannot discriminate against tenants or prospective tenants because of their association with someone who is identified with any of the protected grounds in the *Act*.

Section 13 of the *Act* prohibits landlords from advertising rental properties in ways that discriminate against people based on any of the protected grounds.

Section 14 of the *Act* prohibits harassment in tenancy based on the protected grounds listed above.

The *Act* applies to self-contained dwelling units. A self-contained dwelling unit has its own entrance and separate living spaces.

The *Act* does not apply to “room-mate” or “house-mate” situations.

People who rent out a room in their home where spaces such as washroom, kitchen, living room, and entrances are shared can show preference based on protected grounds. For example, a single woman may feel more comfortable sharing her space with another woman.

Landlords' Rights

Landlords have the right to:

- Select responsible tenants.
- Use application forms, interviews and reference checks to assess whether rental applicants will be responsible tenants.
- Show preference to tenants in situations where exceptions apply. For example, it is not contrary to the *Act* to show preference to family members.

A **responsible tenant** is someone who pays the rent on time, avoids damaging the property, does not create disturbances for other tenants, follows the terms of the tenancy agreement, and gives proper notice of any intention to move.

Tenants' Rights

Tenants have the right to:

- Have their rental applications considered without discrimination.
- Be treated the same as other tenants, without discrimination.
- Have landlords take reasonable steps to accommodate their needs when their needs are based on disability or any other protected ground in the *Act*.

Housing advertisements

The *Act* says that landlords cannot discriminate against people when they put rental ads in the newspaper or put up “for rent” signs or posters.

A rental ad discriminates if it discourages or keeps people from applying based on any of the protected grounds. Examples:

<i>Message in ad...</i>	<i>Discriminates against...</i>	<i>Protected Ground...</i>
Adults only	people with children	family status
Single tenants only	married, common-law	marital status
No common-laws	common-law couples	marital status
Professionals only	people on pensions, income support, employment insurance	social condition

If landlords have concerns about future tenants, they should try to state their concerns clearly. For example, if late rental payments are the real concern, they could say, “Tenants must be reliable” instead of “Professionals only.” This sends out the message that all applicants are welcome to apply.

Tenancy Application Questions

Landlords can ask potential tenants questions about their ability to be responsible tenants.

General Information about the applicant

Landlords can ask ...

- Are you 19 years of age or older? Landlords do not have to rent to applicants younger than 19. The age of majority in the NWT is 19. It is also the legal age for signing contracts and leases.

Questions to avoid ...

Asking applicants for personal information that is about any of the protected grounds and is not about their ability to be responsible tenants. For example, date of birth, marital status, nationality, and religion.

Level of income

Landlords can ask for ...

Statements of monthly or annual income.

Keep in mind...

Human rights tribunals in Canada have found that the use of “rent-to-income” ratios to select tenants discriminates against women, single parents, people on social assistance, families and newcomers to Canada. An example of a rent-to-income ratio is when a landlord turns away applicants who would pay more than 30% of their income towards rent. Landlords who use such ratios are opening themselves up to complaints of discrimination.

Source of income

Landlords can ask ...

Unemployed applicants to name their source of income.

Keep in mind

The Act prohibits landlords from refusing to rent to applicants because the landlords find out that their income is from a source like employment insurance, income support or a pension. Turning away applicants based on their source of income alone without considering other parts of their application is discrimination based on social condition.

John did not want to rent to Anne because she was on a disability pension. He was worried she would not be able to pay the rent. He then checked her landlord references and found out that she always paid her rent on time. He decided to rent the apartment to her.

Credit Checks

Landlords can ask for ...

- Credit references (bank, credit cards, etc.)

Employment Information

Landlords can ask for ...

- Names and addresses of current and former employer(s) to confirm applicants' employment status and income.

Reference Checks

Landlords can ask for ...

- Names and contact information of previous landlords.
- Names and contact information of character references, if the applicant has never rented before.

Other people living with the applicant

Landlords can ask for ...

- Their names.

Questions to avoid ...

- Asking applicants' ages and other personal information like race, marital status, etc.
- Asking whether they are adults or children.
- Asking what the relationship is between the applicant and the other people living with them.

Keep in mind

The Act says that a landlord cannot turn down applicants because they have children. It is also illegal to restrict applicants with children to certain buildings or sections of a building.

The Act also protects tenants from discrimination based on their association with people who are identified by any of the protected grounds. This means that landlords cannot discriminate because they do not like a tenant's roommates, friends, or family members for reasons such as their race, religion, and sexual orientation.

Dennis saw an ad for a one-bedroom apartment. He went to view the apartment, which was located on the sixth floor. He told the building manager that he wanted to rent it. When Dennis mentioned that he had a young child, the manager told him that families with children could only live on the first three floors of the building. Dennis was not allowed to rent the apartment. Dennis was upset and did not think this was fair. A friend told him that he should call the Human Rights Commission to find out if this is allowed. He called the Commission and was told that he could file a human rights complaint about discrimination based on family status (being a parent).

Be Flexible with Application Requirements

Landlords should be prepared to be flexible with application requirements when an applicant is unable to meet the requirements because of a reason that is related to one of the protected grounds. In the example below, a landlord makes an exception to his application requirements because of the applicant's place of origin.

Mr. Ahmed and his wife immigrated to Canada from Bangladesh six months ago. The couple first stayed with friends. After Mr. Ahmed and his wife found jobs, they applied to rent an apartment. When Mr. Ahmed filled out the application form, he left the sections blank that asked for credit information and references from previous landlords. He had no credit cards because they were not commonly used in Bangladesh, and he had never rented before. At first, the property manager did not want to accept his application because he did not have a credit rating and a rental history. After Mr. Ahmed explained his situation to him, the property manager decided to accept his application based on his level of income and a positive reference check from the friends he was staying with.

The Duty to Accommodate

Landlords have a *duty to accommodate* tenants when it is based on one of the protected grounds.

The *duty to accommodate* means that a landlord must make changes or exceptions to certain rules, standards, or policies to make sure that a tenant is not discriminated against – or excluded - because of their disability, race, age, sex, religion or any other protected ground. Most often, a tenant with disabilities will ask a landlord to accommodate them. This usually involves the landlord making change to the physical environment of the building or unit.

For example, a landlord can accommodate a tenant's disability by:

- Installing wheelchair ramps in new buildings and existing ones;
- Making sure that hallways and lobbies are clear to allow for the easy passage of wheelchairs, walkers and scooters;
- Installing handrails on stairs;
- Reserving parking spaces close to the building for tenants who have difficulties walking; or,
- Putting visual markers on stairs for tenants who are visually impaired.

Dave has a severe allergy to latex, which is in all machine manufactured carpet. His application was accepted for a one-bedroom apartment. The apartment had carpet in the living room and bedroom. He asked his landlord to replace the carpet with laminate flooring. He gave his landlord a letter from his doctor, which stated his need for a carpet free unit. The landlord removed the carpet before Dave moved in.

The duty to accommodate is a shared responsibility

Tenants should tell the landlord of their needs to be accommodated on the basis of a protected ground. The landlord cannot be expected to automatically understand the needs of the tenant, especially if the needs are not obvious. Tenants must also provide some information or explanation as to why they need to be accommodated.

Accommodation is not a nicety or a courtesy. -it is required by law.

Landlords must respond to, and seriously consider, a tenant's request to be accommodated. Landlords must consider all options available for meet the request. The landlord is expected to accommodate the tenant in a way that most respects the dignity of the tenant and at the same time, does not impose *undue hardship* on the landlord.

Undue Hardship

Landlords may not have to accommodate a tenant's request if the request would cause them undue hardship.

Below are three factors to consider when deciding whether a request to be accommodated would be undue hardship:

Financial costs –the cost of the request is so high that it would put the landlord at risk of going out of business.

Outside Sources of Funding - other sources of funding available to the landlord and the tenant must be considered before any claim of undue hardship can be made. For example, funds available through government agencies for upgrading buildings to make them wheelchair accessible.

Chantal has a physical disability that makes it difficult for her to walk. She recently got the chance to own a dog that is trained to help people maintain their balance. Her building has a no pets rule. The first time she asked her landlord if she could get the dog, the landlord said no. The landlord told her that they only had to allow guide dogs for people with visual impairments. Chantal then gave her landlord a letter from the doctor and a certificate that showed the dog was a trained assistive animal for people with disabilities. Based on this information, the landlord gave Chantal permission to get the dog.

Health and Safety Requirements – The duty to accommodate may be excessive if it risks the health and safety of other tenants.

It is the landlord's responsibility to show that a request to be accommodated would cause the landlord undue hardship. Landlords should be able to support their argument of undue hardship with objective information such as financial statements and budgets or expert opinions.

The more resources a landlord has, the more difficult it will be argue undue hardship in a complaint of discrimination. Landlords who build new facilities will face a higher test in showing that accommodating a particular need is impossible.

Harassment

Harassment in housing is when a tenant is subjected to unwelcome and offensive behavior that attacks the tenant’s dignity and self-respect. The *Act* deals with harassment when it is about a person’s race, religion, age, disability, sexual orientation or any other protected ground.

Harassment can take many forms:

- Verbal abuse or comments that put down or stereotype people because of their sex, pregnancy, race, sexual orientation, disability, or any other protected ground.
- Jokes about a person’s gender, race, marital status, sexual orientation, disability, or any other protected ground.
- Material that is racist, sexist, ageist, sexually explicit, anti-gay or lesbian, or insulting that is displayed publicly or circulated.
- Sexually or racially offensive gestures.
- Staring or leering in a sexual manner.
- Physical contact of a sexual or aggressive nature.
- Repeated behavior that a person has objected to and, therefore, is known to be unwelcome.

The *Act* prohibits landlords, agents, contractors of the landlord, or other tenants from harassing a tenant based of any of the protected grounds. If one resident is harassing another resident, it is the landlord’s responsibility to make sure that the harassment stops. Landlords who do not take steps to stop the harassment could have a human rights complaint filed against them.

Alice’s apartment building has a bulletin board in the lobby where tenants and community groups can put up ads and notices. One day Alice notices a poster that has a picture of a half naked woman with offensive comments. She reports it to the property manager who tells her that the building caretaker will remove the poster immediately. The manager also tells her that the caretaker will check the bulletin board regularly for other offensive posters. Alice is satisfied that her landlord has taken her concerns seriously.

Special Programs & Social Housing in the Northwest Territories

The *Act* allows for special housing programs that help disadvantaged individuals and groups overcome challenges to accessing housing. This can include housing programs for elders and seniors, people with disabilities, the homeless, and those on limited incomes.

Mary is a parent of two young children. She recently left an abusive relationship and had nowhere to live. She does not have enough income to afford the high cost of market rent. After staying with friends for two months, she and her children were accepted into a temporary housing program for women who have left domestic violence situations. The program has subsidized rent, furnished apartments, and offers free adult education classes and counseling in the building where Mary lives. The housing prohibits men from living in the building and has strict rules around men attending the building for work or for visits.

Frequently Asked Questions

- Q. I asked my landlord three months ago to install handrails in my bathroom because I have a disability that requires me to use a walker. I find it difficult to stand up from sitting or lying in the tub. Can the landlord take a long time to respond to my request?
- A. Landlords should respond promptly to a reasonable request for accommodation. If a landlord has agreed to accommodate, but is taking an unreasonable amount of time to complete it, then you can file a complaint of discrimination.
- Q. I think that my rental application was turned down because the landlord thinks that I abuse alcohol. Can I file a human rights complaint?
- A. Under the *Act*, alcoholism and other addictions are disabilities. If you think the landlord turned down your application because he or she thinks that you have a drinking problem, then you can file a complaint of discrimination based on disability. The *Act* protects an applicant from being turned down because they have a disability. It also protects people from being treated like they have a disability, even though they do not have one.
- Q. I don't think that people on income support, employment insurance, or disability pensions will make good tenants. Can I turn away applicants based on this?
- A. Landlords have a right to select tenants who can give them a reasonable indication that they can pay the rent and have a history of being responsible tenants. However, if you have a blanket policy of turning down applicants based on their source of income alone, then you are opening yourself up to a complaint of discrimination based on social condition. Applicants who get their income from these sources should have their applications assessed on an individual basis just like applicants with jobs. This means looking at all parts of the application such as reference checks and rental history.
- Q. My building manager keeps complaining about the noise my children make, but there are adults who live in the building who make just as much noise and even more. Can I be evicted for this?
- A. Tenants can be evicted for creating disturbances. However, a reasonable amount of noise, including children's noise, is to be expected in a building. If you think that you are being treated differently when it comes to noise because you have children and you end up getting evicted, then you could file a complaint of discrimination based on family status. It is also recommended that you call the Rental Officer for more information about noise levels and evictions.

Q. I have a no-pets rule in most of my buildings. Recently a tenant with a disability who lives in one of my no-pets buildings asked permission to get an assistive dog. I told him that he can get the dog if he moves to one of my buildings that allows pets. He refuses to move. I am worried that if he stays in the building and gets a pet, everyone else will ask for one. What are my rights?

A. Landlords are allowed to have no-pets rules. At the same time, human rights law require landlords to make exceptions to these rules to accommodate tenants with disabilities who require assistive animals. An assistive animal is not a pet. It is a working animal trained to assist persons with particular disabilities. For example, guide dogs that help people with visual impairments or dogs that assist people with walking difficulties. Even though the tenant lives in a no-pets building, it is your duty to accommodate the tenant by allowing the assistive animal without requiring him to move. Keep in mind that you can allow him to have an assistive animal and still maintain your no-pets rule for other tenants.

Q. Is a landlord allowed to charge tenants different rates of damage deposit and rent based on things like their age, disability, or based on whether they have children?

A. The *Human Rights Act* makes it illegal to charge different amounts based on characteristics like age, disability, social condition, family status or any other protected ground in the *Act*. A tenant can file a complaint of discrimination if this happens.

Complaint Process

For more information about the complaint process, please call the Commission, or visit the Commission's website at: www.nwthumanrights.ca.



Northwest Territories Human Rights Commission

Contact Us

For more information about human rights and housing ...

Write:

PO Box 1860
Yellowknife, NT X1A 2P4
E-mail: info@nwthumanrights.ca
Fax: 867-873-0357

Call:

Toll Free: 1-888-669-5575
Yellowknife: 867-669-5575

Visit:

Main Floor, Laing Building, 5003-49th Street
(Entrance on Franklin Street, next to Motor Vehicles.)

Web:

www.nwthumanrights.ca

For other housing inquiries, contact the Rentals Office at (867) 920-8047 (Yellowknife) or 1-800-661-0760 (outside Yellowknife).