

# Employment and HIV/AIDS

## Discrimination and Employment

A lot of people living with HIV experience discrimination in the workplace. The problem is that this kind of discrimination can be quite subtle, and people feel like there is nothing they can do about it. But there is something you can do. Here's what you need to know.



The Alberta *Human Rights, Citizenship and Multiculturalism Act* protects people from discrimination by employers. Based on certain qualities, like race or disability, employers cannot:

- 1) Refuse to hire people or dismiss them,
- 2) Discriminate against people while they are employed.

People are protected from discrimination based on any of the following qualities:

- Physical Disability
- Mental Disability
- Sexual Orientation
- Gender/ Gender Identity
- Source of Income
- Race
- Colour
- Ancestry
- Place of Origin
- Family Status
- Marital Status
- Religious Beliefs
- Age (not always covered)

These qualities are called "protected grounds for discrimination."

If your employer refuses to hire you, fires you, pressures you to leave, harasses you or discriminates against you based on any of the grounds above, they may have broken the law. This means that you have the right to do something about it.

The information on this sheet is **not legal advice**. If you have specific legal questions you should talk to a lawyer.

## HIV and Discrimination

HIV/AIDS is considered a **physical disability** according to the law.



The Alberta *Human Rights, Citizenship and Multiculturalism Act* says employers cannot discriminate against people on the basis of physical disability. This means that it is **against the law for your employer to discriminate against you on the basis of your HIV status**.

You do not actually have to be HIV positive in order to experience discrimination. The following people are all protected from discrimination based on physical disability:

- Symptomatic HIV+ people (have symptoms)
- Asymptomatic HIV+ people (do not have symptoms)
- People perceived to be HIV + but who are not
- HIV- people who associate with people who are HIV+

### The Many Faces of Discrimination:

People living with HIV/AIDS sometimes belong to more than one group that is protected from discrimination. HIV affects a diverse group of people including:

- Aboriginal peoples
- Women
- Heterosexual people
- Transgendered and Transexual people
- Injection drug users,
- Men who have sex with men
- People who come from countries where HIV/AIDS is common (e.g. South Africa)

It is important to note that race, gender, sexual orientation and physical/mental disability (including alcohol and drug use) are all prohibited grounds for discrimination in employment. If you are discriminated against based on any of these grounds, you have the right to make a complaint.

# What Counts as Discrimination?



## In Hiring:

Job application forms or job interviews should not require you to give any information related to the protected grounds for discrimination unless that information is directly related to the requirements of the job. If an employer can show that something is a “bona fide occupational requirement” (a quality necessary to be able to do the job) then they could ask you questions about it. For example, if you apply for a peer counseling job working with people living with HIV, the employer could require that the person hired for the job was a person living with HIV and would be allowed to ask you about your HIV status. However, in most circumstances, a question about your HIV status during the hiring process would be inappropriate.

In general, during the hiring process an employer **should not ask for** any of the following, unless they can show that they need that information due to a “bona fide occupational requirement”:

- Medical information, including HIV status, other disabilities (including past or present alcohol or drug use), previous or present health problems, past compensation claims, past sick leave/ stress leave or what medications you are currently taking.
- Gender, marital/family status
- Sexual orientation
- Race, colour, ancestry
- Religious beliefs

During the hiring process the employer **is allowed to:**

- Say that once you are chosen for the job, you will only be hired if you are able to pass a job-related medical exam. This exam may include both physical and psychological tests relevant to your job duties.

At this point, the employer cannot refuse to hire you due to your HIV status unless they can show that, based on your current health, you are unable to perform the job requirements or there is some specific reason that a person living with HIV *cannot* perform the job. It would be very difficult for an employer to prove that NOT having HIV was a bona fide occupational requirement.

## On the Job:

Once you have been hired, your employer cannot discriminate against you based on any of the protected grounds for discrimination. This means that while you are employed, your employer or coworkers should not do any of the following unless they have a valid, non-discriminatory reason:

- Refuse you a job promotion or training opportunity
- Fire you, lay you off, pressure you to resign or reduce your hours.
- Harass you verbally or physically (including jokes, derogatory statements, threats, inappropriate touching, or unwelcome invitations or requests)
- Post signs or images that are offensive
- Fail to accommodate your disability (e.g. give you time off to go to the doctor, or to stay home sick)

# Workplace Accommodation

Employers have a legal duty to “accommodate” the individual needs of employees who have disabilities. This means that they must make a special effort to provide people with disabilities with whatever they need to do their job. Examples of accommodation might include time off when they are too sick to work or lighter work duties if they are unable to do heavy work.

This is especially important for people living with HIV/AIDS because HIV/AIDS is considered to be a disability. If you get sick, your employer has a legal duty to accommodate your special needs.

Employers are required to take *reasonable* steps to accommodate someone with a disability. This means that, as long as the accommodation does not cause the employer “**undue hardship**”, the employer must work with the employee to accommodate their needs.



For example, if an employee needs to take time off work because they have had a bad reaction to some medications, an employer should allow them to take time off without losing their job. In this case, an employer may need to pay other employees overtime to cover for an absent employee or to hire a temporary employee to replace the absent worker. Depending on a variety of factors, like the size of the company and the length of time this accommodation was needed, this may or may not be enough to cause the employer “undue hardship.”

Alternatively, an employer and employee could agree that when the employee returned to work the employee could work a few extra hours each day, without being paid overtime, to make up for the missed time. By working together, employers and employees can find solutions that work for both of them. For more information on how to get accommodation, see the next section.

# Getting Workplace Accommodation



The most important things to know about getting accommodation are:

- You need to let your employer know that you need accommodation. It is best to do this in writing. Keep a copy for your files.
- Your employer has a right to ask for a doctor's opinion.
- You do not need to disclose your HIV status to get accommodation. A note from your doctor explaining that you have a "health issue" or a "disability" that requires accommodation should be enough.

- You should explain what kind of accommodation you need (e.g. time off work, less heavy lifting, breaks at a different time of day).
- You should indicate how long you think you will need to be accommodated.
- You should cooperate to find the best way to accommodate your needs.

For more information on accommodation the Alberta Human Rights and Citizenship Commission interpretive bulletin "Duty to Accommodate" available at [www.albertahumanrights.ab.ca](http://www.albertahumanrights.ab.ca)

## Discrimination in Action



One problem with discrimination in employment is that it is not always obvious. While in the past open discrimination was common, today it would be very unusual for an employer to say "I'm firing you because you are HIV positive." Instead, employers often seem like they are not discriminating, and they may not even realize that they are acting in a discriminatory way. Here are some examples people living with HIV have shared with us:

### Story #1:

"It's just like when the employer found out [your HIV status] he'd send you on time off and then say sorry, we don't have any work right now, don't bother coming back right now. They don't say, 'you have HIV we don't want you there.' Nobody is that silly. Even the last job I was on, they knew I was taking all kinds of pills, and as far as I disclosed to them it was diabetes, but they probably didn't want some pill popper [working for them]...I think the fact that you're taking all those pills makes them wonder...I'm sure as far as direct discrimination there really isn't anything there. I ask for a record of employment and they say shortage of work, but they hired two new guys."

The person living with HIV who told us this story noticed that several times, when he disclosed his HIV status, or when his employer has been aware that he is taking medication, he has been laid off and told there is "no work." As a temporary labourer, it is easy for his employers to let him go between jobs. But, when the employer hires new workers, it seems like the reason he was let go wasn't really the shortage of work.

In this case, it doesn't matter whether the employer let him go due to his HIV or due to him taking medications, in either case the employers actions could amount to discrimination on the basis of a disability. Alberta human rights law says that discriminating against someone because of their disability is illegal. In this case, the person could file a complaint with his employer, or with the Alberta Human Rights and Citizenship Commission.

### Story #2:

"I'm afraid to go out and get a job because they're going to ask why I haven't been working. I haven't been working since 1990. And most places, if you go to get a job, you have to fill out those insurance claims and you've got to disclaim that you're HIV on a lot of them"

The person living with HIV who told us this story, had tried to apply for a job in the service industry. When he looked at the application, he realized that it asked him for information about his health, including a question about his HIV status. This is a discriminatory business practice because an employer is **not allowed** to ask for that information unless they can prove that there is a job-related reason for needing to know that information. In the case of a job serving customers in a small store, there is no job-related reason for asking for that information.

If the job requires certain physical requirements, the employer is allowed to ask the person they want to hire to have a job-related medical exam. This exam should only be to make sure that the employee will be able to perform the job requirements. In most cases, a person being HIV positive would not prevent them from fulfilling the requirements of a job.

*(Continued on page 4)*

# Discrimination in Action

## Story #2 continued:

If someone asks for your HIV status on a work application form, you could just not fill out that part of the form. If they ask why you haven't filled it out, you could explain that, if they hire you, you will provide whatever job-related medical information they need. If you no longer want the job, you could tell them that it is an illegal business practice to ask for non-job related medical information on an application form, or you could file a human rights complaint against them. You could also send AIDS Calgary a copy of the application form and ask us to inform the employer that their application form violates Alberta's human rights law.

It is important to not that once you have been hired for a job, you may have to disclose your HIV status to your company's insurance company. If this is the case, be sure to ask them who will have access to that information and to remind them that they should keep that information confidential.

## What to do when you face discrimination:

What should you do when you experience discrimination in the workplace?

**1) Discrimination?** Ask yourself: am I being discriminated against on the basis of one of the protected grounds of discrimination (i.e. disability, race etc.).

**2) Speak with the Discriminator, Request a Meeting with someone Higher Up, or Write a Letter of Complaint:** If you are able to work out the problem informally, it may be faster and better for everyone involved. For example, you may want to talk directly to the person who is discriminating against you because they may not even realize that they are treating you unfairly. Or you may want to talk to someone higher up, because once your employer knows that you are having problems with a coworker or a supervisor, they may be willing to deal with it. You could also send your employer a letter of complaint. If you need some support in this process, be sure to ask for help. You can contact your local AIDS service organization.

**3) Keep Records:** If you think you are being discriminated against, it is a good idea to start keeping records. Write down all of the events, conversations or situations that make you think you have been, or are being, discriminated against. Make sure you include who was involved, what happened, and when each event happened (date and time). Gather anything that will support your story— documents, memos, names of people who witnessed events, performance reviews, e-mail print outs etc.

**4) Ask Questions:** If you have questions, talk to somebody. If you have a Union Representative, contact them and ask for information and support. You can also contact the Alberta Human Rights and Citizenship Commission or your local AIDS serving organization to ask questions and get support. See Alberta's Human Rights website at [www.albertahumanrights.ab.ca](http://www.albertahumanrights.ab.ca)

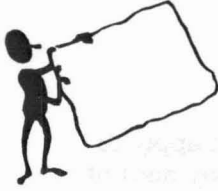
**5) Identify the Complaints Process:** Find out if there is a complaints process at your workplace or through your union. Check your employee handbook, collective agreement, or talk to someone in the human resources department to find out what the complaints process is. If there is no process, or if you are unable to find out what that process is, you can write a letter of complaint to whoever you think is the best person to talk to. This may be your supervisor, the manager of your department, someone in the human resources department or someone higher up. If you think it is appropriate, send a copy of this letter to the CEO or President of the company. Make sure you do everything in writing, and ask that they reply in writing within a certain period of time. Make sure you keep a copy of the letter for your files and that you put a date on everything that you send.

**6) File a Human Rights Complaint or a Civil Lawsuit:** If writing letters or filing a complaint with your employer is unsuccessful, there are other options. You can file a human rights complaint with the Alberta Human Rights and Citizenship Commission, or you can launch a civil lawsuit. For more information on this see the following pages of this Fact Sheet or read Fact Sheet #8 Filing a Human Rights Complaint.





# Lodging an Official Complaint



The first thing you should do is try filing a complaint using the complaints process provided by your employer or your union. If this is unsuccessful, you may need to lodge an official complaint. You have three options:

- 1) Human Rights Complaint
- 2) Civil Lawsuit
- 3) Labour Standards Complaint

## Human Rights Complaint:

You can file a complaint with the Alberta Human Rights and Citizenship Commission if a potential employer **refuses to hire** you based on a protected ground for discrimination, if your employer **discriminates against you** in the workplace or if your employer fails to accommodate your individual needs in the workplace.

Filing a complaint is **free**. You have **twelve months** to file a complaint after the last event you think was discriminatory. Resolving a complaint may take anywhere between **one month and more than a year**, depending on how long it takes to go through the process.

For more information on steps of filing a Human Rights Complaint please see Fact Sheet #8

It is important to note that even if the human rights commission finds that only **10%** of your dismissal or mistreatment was due to discrimination, that **still amounts to discrimination**.

People often worry that if they file a complaint, it will be **their word against the word of their employer**. It is important to try to collect any proof you can that discrimination has occurred. But, even if you cannot find much proof, you should still file a complaint. The investigators at the commission will consider what you and your employer have to say and **if your version of events is more credible, they may find in your favour despite the lack of concrete evidence**.

### Alberta Human Rights and Citizenship Commission

Suite 310, 525 – 11 Avenue SW

Calgary, Alberta T2R 0C9

**Confidential Inquiry Line (403) 297-6571**

Toll-free 310-0000 then (403) 297-6571

TTY service in Calgary (403) 297-5639

TTY Toll-free within Alberta 1-800-232-7215

## Filing a Civil Lawsuit:

You can file a civil lawsuit if you feel like you have been **wrongfully dismissed** or if you want to sue someone for **harassment**. Through this process you may be able to collect lost wages or monetary damages for pain and suffering.



There may be a **time limit** on how long after an incident you can sue. You should consult with a lawyer to find out the time limit for your specific complaint.

Filing a case in civil court is **not free**. There are costs associated with lawyers, court filing fees, witness fees and you will not be reimbursed for wages lost while you attend your court hearing. Before you decide to sue, you should think about whether it will cost you more than you stand to gain. Also, when you sue, if you win, these costs will usually be paid for through your court settlement. But, **if you lose, you may be required to cover the other person's court costs**.

Also, if you launch a civil lawsuit, you will have to prove that you have been harassed or wrongfully dismissed. This may involve providing documents or witnesses to support your claim. The proof required in a court case is likely greater than the proof required if you were to file a human rights complaint.

## To talk to a lawyer:

**Lawyer Referral Service** (403) 228-1722

Prerecorded legal information, provide the names of 3 lawyers you can call for advice. The first 1/2 hour is free.

**Calgary Legal Guidance** (403) 234-9266

Provide free legal advice at their evening legal clinic.

If you are **thinking of filing a civil lawsuit**, have a look at this **booklet** produced by the Alberta Court Services:

**Commencing a Claim in Provincial Court Civil Division and Getting and Collecting your Judgment in Alberta.**

Available at [www.albertacourts.ab.ca](http://www.albertacourts.ab.ca)

## Lodging a Complaint (continued)



### Alberta Employment Standards Complaint:

Alberta's Employment Standards Code regulates the **minimum standards** that apply to employees and employers. For example, the Code regulates minimum wages, payment of earnings, the number of hours you can work legally in a day/week, rules for overtime, vacations and holidays, and rules about the termination of employment (e.g. giving two weeks notice).

If you are discriminated against by your employer, there is a chance that they might **fire you from your job without giving you the proper notice or pay**. If this happens, you can file a written complaint with the Alberta Employment Standards. For people who have been working between three months and 2 years at a job, employers must give either one week's notice or one week's worth of wages. If you have been working longer than two years at a job, you are entitled to more notice or wages. You must file your complaint within six months of being fired. For information about Employment Standards or how to file a complaint contact:

### Alberta Human Resources and Employment Information Centre:

Toll-free by dialing **310-000**, then **780-427-3731**.

Deaf/ Hard of hearing TDD/TDY call 1-800-232-7215.

Counselors are available from 8:15 am to 4:30 pm Monday to Friday.

Recorded messages on core employment standards are available 24 hours a day.

### Employment Standards, Calgary Office

Main Floor, Elveden Centre

717 - 7 Avenue SW

Calgary, AB T2P 0Z3

Phone: (403) 297-5846

## Community Resources

### AIDS Calgary

A human rights worker is available to answer questions and to assist with filing complaints.

Suite 200, 1509 Centre Street South

Calgary AB T2G 2E6

Phone (403) 508-2500

[www.aidscalgary.org](http://www.aidscalgary.org)



### Southern Alberta Clinic

#213 906-8 Ave. SW

Calgary AB T2P 1H9

Phone: 403 234-2399

[www.crha-health.ab.ca/clin/sac/sac.htm](http://www.crha-health.ab.ca/clin/sac/sac.htm)

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## Further Reading

This fact sheet was adapted in part from the following sources:

**Human Rights Information Sheets.** Alberta Human Rights and Citizenship Commission June 2002.

[www.albertahumanrights.ab.ca](http://www.albertahumanrights.ab.ca)

**Duty to Accommodate.** Alberta Human Rights and Citizenship Commission [www.albertahumanrights.ab.ca](http://www.albertahumanrights.ab.ca)

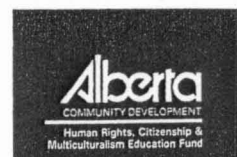
**Commencing a Claim in Provincial Court Civil Division and Getting and Collecting your Judgment in Alberta.** Alberta Court Services.

[www.albretacourts.ab.ca](http://www.albretacourts.ab.ca)

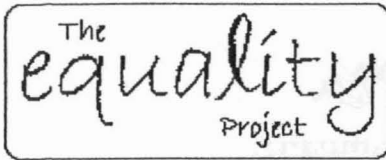
**Employment Standards Fact Sheets.** Alberta Human Resources and Employment.

[www.gov.ab.ca/hre/employmentstandards](http://www.gov.ab.ca/hre/employmentstandards)

Project Funded in part by:



February 2004



# Housing and HIV/AIDS

## Discrimination and Housing



A lot of people living with HIV experience discrimination in housing. The problem is that this kind of discrimination is not always obvious, and people feel like there is nothing they can do about it. But there is something you can do. Here's what you need to know.

The Alberta *Human Rights, Citizenship and Multiculturalism Act* protects people from discrimination by landlords. Based on certain qualities, like race or disability, landlords cannot:

- 1) Refuse to rent people housing or to continue renting to them,
- 2) Discriminate against them while they are renting housing.

People are protected from discrimination based on any of the following qualities:

- Physical Disability
- Mental Disability
- Sexual Orientation
- Gender/ Gender Identity
- Source of Income
- Race
- Colour
- Ancestry
- Place of Origin
- Family Status
- Marital Status
- Religious Beliefs
- Age (not always covered)

These qualities are called "protected grounds for discrimination."

If a landlord refuses to rent to you, evicts you, harasses you or pressures you to leave based on any of the grounds above, they may have broken the law. This means that you have the right to do something about it.

The information on this sheet is **not legal advice**. If you have specific legal questions you should talk to a lawyer.

## HIV and Discrimination

**HIV/AIDS** is considered a **physical disability** according to the law.



The Alberta *Human Rights, Citizenship and Multiculturalism Act* says that landlords cannot discriminate against people on the basis of physical disability. This means that it is **against the law for your landlord to discriminate against you on the basis of your HIV status**.

You do not actually have to be HIV positive in order experience discrimination. The following people are all protected from discrimination based on physical disability:

- Symptomatic HIV+ people (have symptoms)
- Asymptomatic HIV+ people (do not have symptoms)
- People perceived to be HIV + but who are not
- HIV- people who associate with people who are HIV+

### The Many Faces of Discrimination:

People living with HIV/AIDS sometimes belong to more than one group that is protected from discrimination. HIV affects a diverse group of people including:

- Aboriginal peoples
- Women
- Heterosexual people
- Transgendered and Transexual people
- Injection drug users,
- Men who have sex with men
- People who come from countries where HIV/AIDS is common (e.g. South Africa)

It is important to note that race, gender, sexual orientation, physical/mental disability (including alcohol and drug use) and source of income (including social and disability benefits) are all prohibited grounds for discrimination in housing and accommodation. If you are discriminated against based on any of these grounds, you have the right to make a complaint.

# What Counts as Discrimination?



## Before Renting:

Housing application forms or interviews should not require that the applicant give any information related to the protected grounds for discrimination.

This means that during the renting process a landlord should not ask for:

- Medical information, including HIV status, other disabilities (including past or present alcohol or drug use), previous or present health problems, or what medications you are currently taking.
- Gender, marital status
- Sexual orientation
- Race, colour, ancestry
- Religious beliefs

The landlord is allowed to:

- Ask for proof of your ability to pay the rent, including a credit check.
- Ask for references from your past landlord

Your landlord cannot refuse to rent to you because of your HIV status, source of income (e.g. disability benefits or social assistance), sexual orientation, gender etc. If they do this, they may have broken the law and you have the right to make a complaint.

## While living in the Housing:

Once you are living in the housing, your landlord cannot discriminate against you based on any of the protected grounds for discrimination.

This means that while you are living there, your landlord should not do any of the following:

- Evict you or pressure you to leave due to your HIV status
- Fail to respond to your requests for repairs or maintenance due to your HIV status
- Harass you verbally or physically (including jokes, innuendo, derogatory statements, threats)
- Post signs or images that are offensive

Even if other tenants in the building are unhappy to have someone living with HIV in the building, your landlord still cannot ask you to leave.

If your landlord discriminates against you, you have a right to make a complaint.

## Discrimination in Action

Discrimination in housing is complicated. It's not just about being treated badly or getting evicted. It's about being refused housing, being fearful of disclosing your HIV status, and being afraid of losing your home when you need it the most. Here is what some people living with HIV had to say about discrimination in housing.



"I also know of people that were harassed by their landlords due to their [HIV] status...people that were dealing with their HIV status and were worried about being booted on the street because they didn't know their legal rights, their human rights. They were terrified that their landlord was going to boot them on to the streets."

"We went looking around for a place to stay and [we] were rejected a place to stay because we don't have a job, but yet, we have assured income, both [of us]...It's crazy, and I think that is discrimination. Because I've got an assured income, which is sometimes better than a job, because you can get fired from a job, right?"

"Well, there again, you don't say Hi, I'm [so and so], I'm broke, I make no money, I'm on assistance, I have HIV...please rent me a room!"



# What to do when you face discrimination



**1) Discrimination?** Ask yourself: am I being discriminated against on the basis of one of the protected grounds of discrimination (i.e. disability, race etc.).

**2) Speak with the Discriminator, Request a Meeting with someone Higher Up, or Write a Letter of Complaint:** If you are able to work out the problem informally, it may be faster and better for everyone involved. For example, you may want to talk directly to your landlord because they may not even realize that they are treating you unfairly and once they know that they are breaking the law, that you know what your rights are in this area, and that you intend to file a complaint, they may be willing to try to find a solution you can both live with. If your landlord works for a building management company, you may want to talk to someone from the company about how you have been treated by their employee. Also, you may want to write a formal letter of complaint and send it to your landlord or the property management company. Make sure you keep a copy of any letters you send. If you need some support in this process, be sure to ask for help. You can contact your local AIDS service organization

**3) Keep Records:** If you think you are being discriminated against, start keeping records. Write down all of the events, conversations or

situations that make you think you have been, or are being, discriminated against. Make sure you include who was involved, what happened, and when each event happened (date and time). Gather anything that will support your story (e.g. documents, notes, names of witnesses, copies of bills, receipts or eviction notices)

**4) Ask Questions:** If you have questions, talk to somebody. Contact Alberta Consumer Services (they oversee the *Residential Tenancies Act*), the Alberta Human Rights and Citizenship Commission or your local AIDS organization.

**5) Identify Complaints Process:** Find out who you need to complain to. Talk to the people at Alberta Consumer Services to find out if your complaint is something that would fall under the *Residential Tenancies Act*. Talk to the people at the Alberta Human Rights Commission to find out if your complaint is something that would fall under the *Alberta Human Rights, Citizenship and Multiculturalism Act*. If you need help or have questions, talk to someone at your local AIDS service organization.

**6) File a Human Rights Complaint, a Complaint with Consumer Services or a Civil Lawsuit:** If writing letters or talking to your landlord is unsuccessful, there are other options. You can file a complaint with the Alberta Human Rights Commission, Alberta Consumer Services or file a civil lawsuit. For more information on this see the next section or read Fact Sheet #8.

## Filing a Complaint



If you can't work out your problems with your landlord on your own, you may want to file an official complaint. You have three options:

- 1) Human Rights Complaint
- 2) Alberta Consumer Services Complaint
- 3) Civil Lawsuit

### Human Rights Complaint:

You can file a complaint with the Alberta Human Rights and Citizenship Commission if a potential landlord **refuses to rent you** based on a protected ground for discrimination or if your landlord **discriminates against you** while you are living in rental housing.

Filing a complaint is **free**. You have **twelve months** to file a complaint after the last event you think was discriminatory. Resolving a complaint may take anywhere between **one month and more than a year**, depending on how long it takes to go through the process. For more information on the steps of the complaints process, please see Fact Sheet #8.

It is important to note that even if the human rights commission finds that only 10% of your mistreatment was due to discrimination, that **still amounts to discrimination**. People often worry that if they file a complaint, it will be their word against the word of their landlord. It is important to try to collect any proof you can that discrimination has occurred. But even if you cannot find much proof, you should still file a complaint. The investigators at the commission will consider what you and your landlord have to say and **if your version of events is more credible, they may find in your favour despite the lack of concrete evidence**.

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# Filing a Complaint



## Alberta Consumer Services Complaint:

If your landlord has broken the rules of the *Residential Tenancies Act* you may be able to file a complaint with Alberta Consumer Services. The *Residential Tenancies Act* has rules for things like **moving in** (e.g. landlord can only take one month's rent as security deposit), **living there** (e.g. landlord must give 24 hours notice before entering your apartment, unless it is an emergency or they think the apartment is abandoned) and **moving out** (e.g. landlord must return security deposit or give a statement of damages/costs within 10 days of you moving out). If you have had specific problems with moving in, living there or moving out you should talk to **Alberta Consumer Services at 1-877-427-4088**. If they agree that your landlord has broken the rules, they will ask you to write a letter of complaint or to fill out a complaint form.

For further information on the *Residential Tenancies Act* see the Consumer Tipsheets available at:

[www3.gov.ab.ca/gs/information/landlord/index.cfm](http://www3.gov.ab.ca/gs/information/landlord/index.cfm)

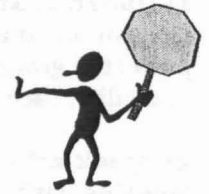
Filing a complaint is **free**. You have **twelve months** to file a complaint after an alleged incident. It may **take several months** for Consumer Services to investigate and resolve your complaint.

**Consumer Services** does **NOT deal with** things like **evictions** or problems getting your landlord to do **maintenance** on the property. Please see the section in this fact sheet on evictions for more information on these issues.

The *Residential Tenancies Act* does **NOT cover rental applications**. So, if you experience discrimination when you are looking for a place to live, that would be covered by the *Alberta Human Rights, Citizenship and Multiculturalism Act*. Complaints about rental applications should be made to the Alberta Human Rights and Citizenship Commission.

The *Residential Tenancies Act* does **NOT cover shared housing**. If you live in the same house or apartment as your landlord, this legislation does not apply to you.

## Filing a Civil Lawsuit:



You can file a civil lawsuit if you feel like you have been **wrongfully evicted** or if you want to sue someone for **harassment**. Through this process you may be able to collect some money for moving costs or for pain and suffering.

There may be a **time limit** on how long after an incident you can sue. You should consult with a lawyer to find out the time limit for your specific complaint.

Filing a case in civil court is **not free**. There are costs associated with lawyers, court filing fees, witness fees and you will not be reimbursed for wages lost while you attend your court hearing. Before you decide to sue, you should think about whether it will cost you more than you stand to gain. Also, when you sue, if you win, these costs will usually be paid for through your court settlement. But, **if you lose, you may be required to cover the other person's court costs**.

Also, if you launch a civil lawsuit, you will have to prove that you have been harassed or wrongfully evicted. This may involve providing documents or witnesses to support your claim. The proof required in a court case is likely greater than the proof required if you were to file a human rights complaint.

Before you file a civil law suit, talk to the people at Consumer Services (Alberta Government Services) **1-877-427-4088**.

### To talk to a lawyer:

**Lawyer Referral Service** (403) 228-1722  
Prerecorded legal information, provide the names of 3 lawyers you can call for advice. The first 1/2 hour is free.

**Calgary Legal Guidance** (403) 234-9266  
Provide free legal advice at their evening legal clinic.

If you are **thinking of filing a civil lawsuit**, have a look at this **booklet** produced by the Alberta Court Services:

**Commencing a Claim in Provincial Court Civil Division and Getting and Collecting your Judgment in Alberta.**

Available at [www.albertacourts.ab.ca](http://www.albertacourts.ab.ca)

# Landlord Trying to Evict You?



## Crisis Situations:

People living with HIV do not usually tell their landlord that they are HIV positive. It is often impossible to tell that someone is living with HIV just by looking at them. But what sometimes happens is that the person will suddenly get sick and require the assistance of an ambulance or medical staff. When this happens, a person's HIV status may be disclosed accidentally, or people may just be suspicious about the person. The landlord or other tenants may be afraid, and due to their panic the person may be evicted. Then, not only is the person sick, they have no place to live. This is a crisis situation. A person in this situation has some options:

### 1) Refuse to leave the housing:

The law states that your landlord must provide you with a written eviction notice which states the reason for the eviction. A landlord may only issue a **48 hour eviction notice** if you have caused "**significant damage**" to the property, or if you have **physically assaulted** the landlord or other tenants. If you have not done either of these things, your landlord cannot issue a 48 hour eviction notice.

A landlord may only issue a **14 day eviction notice** if you have:

- Not paid your rent on time
- Not been considerate of other tenants
- Endangered other tenants
- Conducted illegal acts or business on the premises
- Not kept the housing clean
- Damaged the property
- Not moved out when the rental agreement ended

If you have **not broken any of these rules**, or some other rule that is written in your tenancy agreement, your **landlord cannot evict you**. Have a look at your tenancy agreement to make sure you have not violated any of the rules.

It is important to remember that if you are having a conflict with your landlord, you should **NEVER stop paying your rent**. If you do not pay your rent in its full amount, your landlord will have a valid reason to evict you.

If your landlord serves you with an eviction notice, and you have **not broken any of the rules** of your tenancy agreement, you should immediately **write a letter to the landlord stating why you disagree with the reason they have given for your eviction**. Make sure you put a date on the letter, and keep a copy for your files.

If you think your landlord is discriminating against you because of your HIV status, this letter should also state that you believe the landlord is **discriminating against you because of your disability** and that this is **illegal** under Alberta's *Human Rights, Citizenship and Multiculturalism Act*. You **do not need to say anything about HIV**, especially if you are not sure that your landlord actually knows what your disability is.

If you **are sure** that your landlord knows your HIV status, and if you think they need some education, in your letter you could also **offer to provide them with some information on HIV transmission** to reassure them that you living in the building does not pose a risk to others in the building. If other tenants in the building are concerned, offer to **have a speaker come from your local AIDS organization** to educate the tenants in the building.

In either case, your landlord **must receive this letter before the 48 hours or 14 days of the eviction order are over**. Once you have sent the letter to your landlord, your landlord will have to apply to the court to have you removed. If you have not violated any of the rules in your tenancy agreement then your **landlord should not be able to remove you**.

If your landlord withdraws the eviction notice, but **continues to discriminate against you**, to harass you, or to pressure you to leave, you may want to **file a complaint** with the Alberta Human Rights and Citizenship Commission.

In the event that your landlord **fails to carry out their responsibilities** (i.e. to do repairs, to heat the building etc.) or proceeds to raise the rent more than twice a year, you may be able to **file a complaint** with the provincial court under the *Residential Tenancies Act*. Talk to Alberta Consumer Services (1-877-427-4088) to see if your complaint falls under the *Act*. See Filing a Civil Lawsuit section of this Fact Sheet for lawyer referrals.

### 2) Leave the Housing and file a Human Rights Complaint

You may be too sick, or too mad, or too frustrated to deal with your landlord when you are evicted. That's ok, you still have other options. You can leave the housing now, and file a human rights complaint later. You have **one year** from the date of the incident to **file a human rights complaint**.



# Landlord Trying to Evict You? (cont)

## 2) Leave the Housing and file a Human Rights Complaint (cont)

If you choose this route, the first thing you need to do is **find a new place to live**. See the Community Resources section of this fact sheet for housing information.

The next thing you need to do is **identify whether you can file a Human Rights Complaint**. In the event that your landlord has discriminated against you due to your HIV status, you can file a complaint with the Alberta Human Rights and Citizenship Commission. Please see page 3 for more information.

## 3) Stay in housing temporarily- but get more time to move.

Not all people who are discriminated against are going to want to fight to keep their housing

or to file a human rights complaint. If your landlord and the other tenants in the building are discriminating against you, you may not want to live there anymore. If you feel uncomfortable, you may not want to stay. That is your choice to make.



But, you will likely **need more than 14 days to find a new place to live**. If this is the case, **write a letter** to your landlord stating that you are **willing to leave** the building, but that you will **need more than the 14 days** stated on the eviction notice to find a place to live. Ask the landlord to **withdraw the eviction notice** because they have **not given you a valid reason** for the eviction. Inform the landlord that **discriminating against someone due to their disability is illegal**, and that you could file a Human Rights complaint against them. Use this to convince your landlord to give you more time. You may want to ask for two or three months to find a new place, as it is difficult to find low cost housing. Make sure you keep a copy of this letter for your files. To find a new place to live see the community resources listed below.

## Community Resources

### In a Housing Emergency:

The Southern Alberta Clinic may be able to arrange for some emergency housing.  
Phone: 403 234-2399  
Office: #213 906-8 Ave. SW, Calgary, T2P 1H9



### Finding a place to live:

1) Read the **classifieds** in the local papers

1) Visit the following **websites**. Access a computer at AIDS Calgary or the public library.

- **Calgary Herald Classifieds:**  
Click Real Estate Rentals”  
<http://classifieds.canada.com/calgary/>
- **Calgary Sun Classifieds:**  
<http://www.classifiedextra.ca/>
- **Calgary Housing Registry Network**  
Low cost housing listings, includes shared  
<http://www.lowcostrent.org/>

3) Contact **Calgary Urban Projects Society** (CUPS) Housing Outreach Worker for low cost housing listings  
Phone (403) 221-8780  
Office 128 - 7th Avenue S.E. Calgary

**AIDS Calgary Greenbough Fund** provides emergency funds for registered clients of AIDS Calgary  
AIDS Calgary  
Suite 200, 1509 Centre Street South  
Phone (403) 508-2500

**Southern Alberta Clinic** has emergency funds available for people living with HIV.  
Phone: 403 234-2399  
Office: #213 906-8 Ave. SW, Calgary, T2P 1H9

**Red Cross** has a one-time financial assistance program for security/damage deposits.  
Community Housing Support Program  
Phone: (403) 541-6119  
Office: 1305-11 Avenue SW

### Further Reading:

This fact sheet was adapted in part from the following sources:  
**Human Rights Information Sheets**. Alberta Human Rights and Citizenship Commission.

[www.albertahumanrights.ab.ca](http://www.albertahumanrights.ab.ca)

**Consumer Tips. Information on Landlords and Tenants**. Alberta Government Services, Consumer Services Branch. [www3.gov.ab.ca/gs/information/landlord/index.cfm](http://www3.gov.ab.ca/gs/information/landlord/index.cfm)

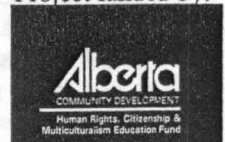
**Investigating Your Consumer Complaints**.

Alberta Government Services [www3.gov.ab.ca/gs/information/publications/tipsheets/](http://www3.gov.ab.ca/gs/information/publications/tipsheets/)

**Commencing a Claim in Provincial Court Civil Division and Getting and Collecting your Judgment in Alberta**. Alberta Court Services.

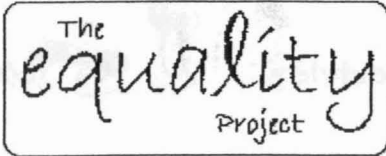
[www.albertacourts.ab.ca](http://www.albertacourts.ab.ca)

Project funded by:



February 2004





# HIV/AIDS and Accessing Services

## Discrimination and Accessing Services

A lot of people living with HIV experience discrimination when they are trying to access basic services (e.g. health care and dental care). The problem is that this kind of discrimination is not always obvious, and people feel like there is nothing they can do about it. But there is something you can do. Here's what you need to know.



The Alberta *Human Rights, Citizenship and Multiculturalism Act* protects people from being discriminated against by the people who provide public services. Based on certain qualities, like race or disability, people who provide services to the public cannot:

- 1) Refuse to provide a person with goods, services, accommodation or facilities that are usually available to the public,
- 2) Discriminate against a person in the process of providing goods, services, accommodation or facilities that are usually available to the public.

People are protected from discrimination based on any of the following qualities:

- Physical Disability
- Mental Disability
- Sexual Orientation
- Gender/ Gender Identity
- Source of Income
- Race
- Colour
- Ancestry
- Place of Origin
- Family Status
- Marital Status
- Religious Beliefs
- Age (not always covered)

These qualities are called "protected grounds" for discrimination. If a service provider (e.g. doctor or dentist) refuses to provide you with services, treats you unfairly, harasses you or discriminates against you based on any of the grounds above, they may have broken the law. This means that you have the right to do something about it.

The information on this sheet is **not legal advice**. If you have specific legal questions you should talk to a lawyer.

## HIV and Discrimination

HIV/AIDS is considered a **physical disability** according to the law.



The Alberta *Human Rights, Citizenship and Multiculturalism Act* says service providers cannot discriminate against people on the basis of physical disability. This means that it is **against the law for someone who provides services to discriminate against you on the basis of your HIV status.**

You do not actually have to be HIV positive in order to experience discrimination. The following people are all protected from discrimination based on physical disability:

- Symptomatic HIV+ people (have symptoms)
- Asymptomatic HIV+ people (do not have symptoms)
- People perceived to be HIV + but who are not
- HIV- people who associate with people who are HIV+

### The Many Faces of Discrimination:

People living with HIV/AIDS sometimes belong to more than one group that is protected from discrimination. HIV affects a diverse group of people including:

- Aboriginal peoples
- Women
- Heterosexual people
- Transgendered and Transexual people
- Injection drug users
- Men who have sex with men
- People who come from countries where HIV/AIDS is common (e.g. South Africa)

It is important to note that race, gender, sexual orientation and physical/mental disability (including alcohol and drug use) are all protected grounds for discrimination in the area of providing services. If you are discriminated against based on any of these grounds the service provider may have broken the law. This means that you have the right to make a complaint.

# What Counts as Discrimination?



## In Applying to get Services:

It is illegal for a service provider (e.g. doctor, dentist etc.) to refuse to serve you based on any of the protected grounds for discrimination. This means that they cannot refuse to serve you based on your HIV status. If the service provider is “accepting new patients” or “accepting new clients” that means that they **cannot refuse to serve you due to your HIV status**. It is considered discriminatory to say that they are “not comfortable” serving you. If they feel that they do not know enough about HIV/AIDS to provide you with basic, non-specialist services, it is their responsibility to learn more about HIV/AIDS so that they can serve you.

Often when you visit the offices of doctors, dentists or other service providers, they ask you to fill out forms that include personal information, including medical information. This information may help them to provide better service for you, because if they are aware of your health status they can take that information into account and watch for complications related to your HIV status.

However, you **DO NOT HAVE TO DISCLOSE** your HIV status when filling out these forms. Today, doctors, dentists, nurses, hygienists etc. practice “universal precautions” to protect them from communicable diseases like HIV. This means that they wear latex gloves, face masks, goggles and aprons when they are doing procedures that carry a possibility of disease transmission. Unless they are performing an extremely invasive procedure (e.g. a major surgery), they should not be at “significant risk” of HIV transmission. The law says that if you are going to place someone at “significant risk” of HIV transmission, you **MUST** disclose your HIV status to them. However, if they are not at “significant risk” the law says you do not have to disclose your HIV status. (For more information on law, disclosure and HIV please see the Fact Sheet #4 ).

If you do decide to disclose your HIV status on these forms, remember that it is **discriminatory for them to take that information, and then to refuse to serve you due to your HIV status**.

## In the Process of Receiving Services: :

When you are accessing services, it is illegal for the service provider to discriminate against you based on any of the protected grounds for discrimination. This means that while you are accessing services they cannot discriminate against you based on your HIV status. For example, they should not:

- Treat you badly or unfairly
- Treat you like your HIV is the only important thing and ignore health issues that are NOT related to your HIV status
- Disclose your HIV status to others/ break your confidentiality
- Harass you verbally or physically (including jokes, derogatory statements, threats)

### Accommodation:

Service providers also have a legal duty to “accommodate” the individual needs of service users who have disabilities. This means that they must make a special effort to provide people with disabilities with whatever they need to make that service more accessible or appropriate. Examples of accommodation might include installing a wheelchair ramp to make the service accessible or learning more about a disability in order to better serve an individual.

This is especially important for people living with HIV/AIDS because HIV/AIDS is considered to be a disability. Service providers are required to take *reasonable* steps to accommodate someone with a disability. This means that, as long as the accommodation does not cause the service provider “undue hardship”, the service provider must work with the service user to accommodate their needs. For example, if the service provider needs to learn more about HIV in order to be able to serve you, it is their responsibility to do so. They cannot refuse to provide basic non-specialist services to you due to your HIV status.

The most important things to know about getting accommodation are:

- You need to let your service provider know that you need accommodation
- You should explain what kind of accommodation you need (e.g. a higher dose of pain medication if you have a high tolerance for pain medication and the current dosage is insufficient.)
- You should cooperate to find the best way to accommodate your needs.
- Assistance is available from your local AIDS service organization.

## Discrimination in Action

Here are some examples of discrimination while accessing services that people living with HIV have shared with us:



### **Discrimination in HIV testing:**

"I'm arranging for my permanent residence here in Canada. And you know, as part of the process you have to take medical exams...I remember when they called me from the general physician's and they asked me to go there because he needed to talk to me...And I don't want to exaggerate, the first thing that the doctor said was, 'You know what, you lied to me. You were lying.' And I'm like 'Excuse me? What do you mean?' [and he said] 'Yes, because you are gay and you have AIDS!'"

In this case, the individual was not given pre or post test counseling. The doctor assumed that the individual was gay based only on the fact that he had tested positive for HIV. The doctor accused the individual of lying to him and assumed that he had known his HIV status and failed to disclose it. The doctor also told the individual that he had AIDS without providing any counseling about what the positive test result meant. The individual later discovered that his illness had not progressed to the AIDS stage, and instead, he was HIV positive. The doctor clearly treated this individual badly, failed to follow proper counseling procedures, and discriminated against the individual on the basis of his HIV status and assumed sexual orientation.

### **Refusal of health and dental care:**

"[The doctor] just said, I'm not going to treat you,...I don't treat you people."

"So when I went to see the dentist, when I went in and filled out the forms, I said on my form that I was positive, and when I got to the suite where they were going to work on me, the hygienist, she came in and had a look at my chart, and then she left the room. Shortly afterwards, the dentist came back without the hygienist and said that she was 'uncomfortable' working on me. He said, 'we've never had an AIDS patient before.'"

"I've been looking for two years for a GP and there's not one that will take an HIV patient. As soon as they know you're HIV they say 'sorry, we're not taking any patients.'"

"I just had one [dentist] where she said that we don't do anyone who is HIV, so we'll send you to one that will."

"My doctor of 25 years fired me because I was a junkie. I didn't even get a chance to tell him I was HIV positive because I didn't know at the time. But there were bruises, he was treating me for compensation for a wrist injury and I got bruises all over my arms. And he's like, 'What are you mainlining?' 'Coke' 'Would you find yourself another doctor. Here's the AADAC number. Don't come back here.' But that's discrimination because I was a junkie, not because I was, I didn't even know my [HIV] status then"

In all of these examples, people living with HIV were refused services due to their disabilities. It does not matter what excuse they use, whether it is that they do not treat "you people", they feel "uncomfortable", or they want to send you somewhere else, all of these are examples of discrimination.

### **Discrimination in Providing Medical Care:**

"I did have a friend who came down with a non-HIV related cancer, and basically got a line from a cancer surgeon along the lines of, 'you've got HIV, you're going to die anyway'...they treat as far as chemo or radiation or whatever, but as far as an operation to remove the tumor, no."

Sometimes people living with HIV are treated like their HIV status is their only important health issue. However, people living with HIV have many of the same medical concerns as anybody else, whether it's a headache, a hernia, or cancer. These medical concerns should never be ignored, and people living with HIV have a right to access the same kind of treatment available to others for these issues.

### **Breaches of confidentiality:**

"I've heard, on more than one occasion, from more than one person, that someone who is positive and admitted to [hospital], that, shall we say, the grape vine spreads very quickly and all the staff of the hospital knows in very short order that the patient in room such and such is HIV positive."

Patients in health clinics, doctor's/dentist's offices and hospitals have a right to keep their health information private. The doctors and nurses who are directly treating you might need to know your HIV status, but it is not necessary for anyone else to be informed of your HIV status. If your confidentiality is broken, then they have violated your right to privacy.



# What to do when you face discrimination:

**1) Discrimination?** Ask yourself: am I being discriminated against on the basis of one of the protected grounds of discrimination (i.e. disability, race etc.).

**2) Speak with the Discriminator, Request a Meeting with someone Higher Up, or Write a Letter of Complaint:** If you are able to work out the problem informally, it may be faster and better for everyone involved. For example, you may want to talk directly to the person who is discriminating against you because they may not even realize that they are treating you unfairly. Or you may want to talk to someone higher up, because once the business/ organization knows that you are having problems with a one of their workers, they may be willing to deal with it. You could also send them a letter of complaint. If you need some support in this process, be sure to ask for help. You can contact your local AIDS service organization.

**3) Keep Records:** If you think you are being discriminated against, it is a good idea to start keeping records. Write down all of the events, conversations or situations that make you think you have been, or are being, discriminated against.

Make sure you include who was involved, what happened, and when each event happened (date and time). Gather anything that will support your story– documents, memos, names of people who witnessed events, bills, e-mail print outs etc.



**4) Ask Questions:** If you have questions, talk to somebody. You can contact the Alberta Human Rights and Citizenship Commission or your local AIDS serving organization to ask questions and get support. Or visit the Alberta Human Rights website.

**5) Identify the Complaints Process:** Find out if there is a complaints process at the business where you were accessing service, or through the professional organization that the person who discriminated against you belongs to. See the next section of this fact sheet for more information.

**6) File a Human Rights Complaint or a Civil Lawsuit:** If writing letters or filing a complaint is unsuccessful, there are other options. You can file a human rights complaint with the Alberta Human Rights Commission, or you can launch a civil lawsuit. For more information on this see the following pages of this Fact Sheet, read Fact Sheet #8 Filing a Human Rights Complaint.

## Lodging an Official Complaint



The first thing you should try is to talk directly with your service provider about your concerns. If this is unsuccessful, you may need to lodge an official complaint.

You have three options:

- 1) Complain to a business or professional organization.
- 2) Human Rights Complaint
- 3) Civil Lawsuit

### Complain to a Business or Professional Organization:

If the person who is discriminating against you belongs to a business or professional organization, you could try filing a complaint using their complaints process.

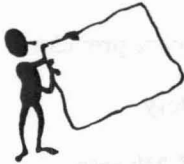
For example, if you are discriminated against by a doctor working in a clinic or hospital, you might want to try talking directly to the doctor about your concerns. If that doesn't work, you could talk to the hospital/clinic complaints department or write the hospital/clinic a letter of complaint. If you do not feel that your complaint is taken seriously or you are unhappy with the results, then you can file a complaint with the health region's complaints department.

If that doesn't work, you can file a complaint with the College of Physicians and Surgeons of Alberta. The College can investigate your complaint, and provide the doctor with advice for improvement, charge a physician with unprofessional conduct, or launch a formal investigation into the physician's knowledge or skill. The College cannot give you a cash settlement. Filing a complaint with the College is free, there is no time limit on filing a complaint, but the complaints process could take four months or longer. Many professional organizations have similar complaints processes. Please see the Community Resources section of this fact sheet for more information on who to contact.

If these complaints processes are not successful, or if you are unhappy with the results, you can still file a complaint with the Alberta Human Rights Commission or launch a civil lawsuit. **There are time limits** on how long you have to file a complaint or a lawsuit after an incident occurs. If it looks like complaining through a professional organization is going to take too long, remember, you are allowed to file a complaint through a professional organization AND to file a human rights complaint and/or civil lawsuit all at the same time.



# Lodging an Official Complaint



## Human Rights Complaint:

You can file a complaint with the Alberta Human Rights and Citizenship Commission if a service provider **refuses to provide services to you** based on a protected ground for discrimination, if a service provider **discriminates against you** while providing you with service, or if your service provider **fails to accommodate** your individual needs.

Filing a complaint is **free**. You have **twelve months** to file a complaint after an alleged incident. Resolving a complaint may take anywhere between **one month and more than a year**, depending on how long it takes to go through the process.

For more information on steps of filing a Human Rights Complaint please see Fact Sheet #8.

It is important to note that even if the human rights commission finds that only 10% of your dismissal or mistreatment was due to discrimination, that **still amounts to discrimination**.

Also, people often worry that it will be **their word against the word of the other person**. It is important to try to collect any proof you can that discrimination has occurred. But, even if you cannot find much proof, you should still file a complaint. The investigators at the commission will consider what you and the other person have to say and **if your version of events is more credible, they may find in your favour despite the lack of concrete evidence**.

### Alberta Human Rights and Citizenship Commission

Suite 310, 525 – 11 Avenue SW  
Calgary, Alberta T2R 0C9

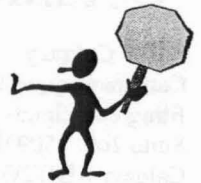
#### Confidential Inquiry Line (403) 297-6571

Toll-free 310-0000 then (403) 297-6571

TTY service in Calgary (403) 297-5639

TTY Toll-free within Alberta 1-800-232-7215

## Filing a Civil Lawsuit:



You can file a civil lawsuit if you feel like you have been **the victim of malpractice** or if you want to sue someone for **harassment**. Through this process you may be able to collect money for damage done or for pain and suffering.

There may be a **time limit** on how long after an incident you can sue. You should consult with a lawyer to find out the time limit for your specific complaint.

Filing a case in civil court is **not free**. There are costs associated with lawyers, court filing fees, witness fees and you will not be reimbursed for wages lost while you attend your court hearing. Before you decide to sue, you should think about whether it will cost you more than you stand to gain. Also, when you sue, if you win, these costs will usually be paid for through your court settlement. But, **if you lose, you may be required to cover the other person's court costs**.

Also, if you launch a civil lawsuit, you will have to prove that you have been harassed or that the person providing services has not done their job properly. This may involve providing documents or witnesses to support your claim. The proof required in a court case is likely greater than the proof required if you were to file a human rights complaint.

### To talk to a lawyer:

#### Lawyer Referral Service (403) 228-1722

Provide prerecorded legal information and the names of 3 lawyers you can call for advice. The first 1/2 hour is free.

#### Calgary Legal Guidance (403) 234-9266

Provide free legal advice at their evening legal clinic.

If you are **thinking of filing a civil lawsuit**, have a look at this **booklet** produced by the Alberta Court Services:

### *Commencing a Claim in Provincial Court Civil Division and Getting and Collecting your Judgment in Alberta.*

Available at [www.albertacourts.ab.ca](http://www.albertacourts.ab.ca)

# Community Resources

## AIDS Calgary

Can answer questions and assist with filing complaints.

Suite 200, 1509 Centre Street South

Calgary AB T2G 2E6

Phone (403) 508-2500

[www.aidscalgary.org](http://www.aidscalgary.org)



## Southern Alberta Clinic

#213 906-8 Ave. SW

Calgary AB T2P 1H9

Phone: 403 234-2399

[www.crha-health.ab.ca/clin/sac/sac.htm](http://www.crha-health.ab.ca/clin/sac/sac.htm)

## Alberta Human Rights and Citizenship Commission

Suite 310, 525 – 11 Avenue SW

Calgary, Alberta T2R 0C9

**Confidential Inquiry Line (403) 297-6571**

Toll-free 310-0000 then (403) 297-6571

TTY service for persons who are deaf or hard of hearing Calgary (403) 297-5639

Toll-free within Alberta 1-800-232-7215

## Calgary Hospitals

(including Foothills, Peter Lougheed, Rockyview, Children's)

Concerns & Commendations Department 944-1673

## Calgary Health Region

Complaints/Comments/Commendations

943-LINK 943-5465

Hospital Patient Representative 943-1205

Public Health Concerns / Food-Housing-Sanitation 943-8060

## Information & Privacy Office

10101 Southport Road SW 943-0424

This website lists regulatory bodies for health care providers, including alternative health care practitioners:

[www.health.gov.ab.ca/reading/links.html#regulatory](http://www.health.gov.ab.ca/reading/links.html#regulatory)

## College of Physicians and Surgeons of Alberta

900 Manulife Place, 10180-101 Street

Edmonton, Alberta, Canada T5J 4P8

**General Complaints & Sexual Exploitation**

**Complaints Line: 1-800- 661-4689**

**E-mail inquiries:** Ms. Sharon Barron, Manager

[sbarron@cpsa.ab.ca](mailto:sbarron@cpsa.ab.ca)

**Website:** [http://www.cpsa.ab.ca/aboutus/complaints\\_dept.asp](http://www.cpsa.ab.ca/aboutus/complaints_dept.asp)

**Complaints form:** [www.cpsa.ab.ca/complaints/lodge\\_complaints.asp](http://www.cpsa.ab.ca/complaints/lodge_complaints.asp)

## The Alberta Association of Registered Nurses

Complaints should be mailed to:

Executive Director,

Alberta Association of Registered Nurses

11620 168 Street

Edmonton, AB T5M 4A6

**Complaints Information Line: 1-800-252-9392 ext. 521**

**Website:** [www.nurses.ab.ca/profconduct.html](http://www.nurses.ab.ca/profconduct.html)

## Alberta Dental Association and College:

Complaints should be mailed to:

Complaints Director of the Alberta Dental Association and College

Suite 101, 8230-105 Street

Edmonton, Alberta T6E 5H9.

**Website:** [www.abda.ab.ca/resources/resources\\_complaint\\_process.asp](http://www.abda.ab.ca/resources/resources_complaint_process.asp)

## Alberta Dental Hygienists' Association

#222, 8657 - 51 Avenue

Edmonton, Alberta

T6E 6A8

Telephone: (780) 465-1756

Fax: (780) 440-0544

email: [adha@askadentalhygienist.com](mailto:adha@askadentalhygienist.com)

<http://www.askadentalhygienist.com/>

## Further Reading

This fact sheet was adapted in part from the following sources:

**Human Rights Information Sheets.** Alberta Human Rights and Citizenship Commission June 2002.

[www.albertahumanrights.ab.ca](http://www.albertahumanrights.ab.ca)

**Duty to Accommodate.** Alberta Human Rights and Citizenship Commission

[www.albertahumanrights.ab.ca](http://www.albertahumanrights.ab.ca)

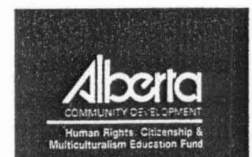
**Commencing a Claim in Provincial Court Civil Division and Getting and Collecting your Judgment in Alberta.** Alberta Court Services.

[www.albretacourts.ab.ca](http://www.albretacourts.ab.ca)

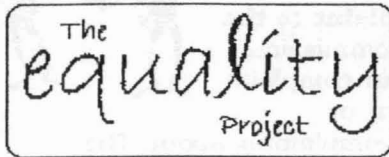
**The Complaints Process.** College of Physicians and Surgeons of Alberta.

[www.cpsa.ab.ca/complaints/complaintsprocess.asp](http://www.cpsa.ab.ca/complaints/complaintsprocess.asp)

Project Funded in part by:



February 2004



# Filing a Human Rights Complaint

## Alberta Human Rights

In Alberta, the *Human Rights, Citizenship and Multiculturalism Act* protects people from discrimination. In Alberta, **discrimination is against the law in the following areas:**

- **Accessing public services** (for example, health care, dentists, social services, restaurants etc.)
- **Housing** (when applying for housing or once you have moved in)
- **Employment practices** (when applying for a job or during employment)
- **Job advertisements and applications**
- **Public statements**, publications, signs
- **Membership** in trade unions and other occupational organizations

In Alberta, **discrimination is against the law**

- |                           |                            |
|---------------------------|----------------------------|
| • Physical Disability     | • Ancestry                 |
| • Mental Disability       | • Place of Origin          |
| • Sexual Orientation      | • Family Status            |
| • Gender/ Gender Identity | • Marital Status           |
| • Source of Income        | • Religious Beliefs        |
| • Race                    | • Age (not always covered) |
| • Colour                  |                            |

### based on the following grounds:

In practice, if you are discriminated against at work, by your landlord or while trying to access services like health care or dental care, that would be a violation of Alberta Human Rights law. If this happens, you can file a complaint with the Alberta Human Rights and Citizenship Commission.

## HIV/AIDS and Alberta Human Rights

**HIV/AIDS** is considered a **physical disability** according to the law. The *Alberta Human Rights, Citizenship and Multiculturalism Act* says employers, landlords and service providers cannot discriminate against people on the basis of physical disability. This means that it is **against the law for them to discriminate against you on the basis of your HIV status.** For more information on human rights law, see Fact Sheet #3.

The information on this sheet is **not legal advice.** If you have specific legal questions you should talk to a lawyer.

## Filing a Human Rights Complaint



What should you do if you think you are being discriminated against and you have been unsuccessful in trying to work out the problem informally (e.g. by talking to the discriminator, writing a letter of complaint, using a complaints process)?

**1) Protected Area?** Ask yourself, am I being discriminated against in one of the protected areas (accessing services, housing, employment etc.)?

**2) Protected Ground?** Ask yourself, am I being discriminated against based on one of the protected grounds of discrimination (e.g. disability, race etc.)?

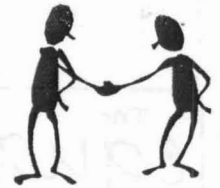
**3) Keep Records:** If the answers to steps #1 and #2 are yes, start keeping records. Write down all of the events, conversations or situations that make you think you have been, or are being, discriminated against. Make sure you include who was involved, what happened, and when each event happened (date and time). Gather anything that will support your story— documents, memos, bills, names of witnesses, events, performance reviews, e-mails etc.

**4) File a Human Rights Complaint:** Filing a complaint is **free**. You have **twelve months** to file a complaint after an incident. Resolving a complaint may take anywhere between **one month and more than a year**, depending on how long it takes to go through the process. When filing a human rights complaint you can ask for many different solutions to the problem or **“remedies.”** For example, you can ask for an apology, a change in company policy, mandatory education on HIV for the people involved or cash settlements for damages suffered.

Note that even if the human rights commission finds that only **10%** of your mistreatment was due to discrimination, that **still amounts to discrimination.** People often worry that it will be **their word against the word of the other person.** It is important to collect any proof of discrimination that you can, but the investigators at the commission will consider what you and the other person have to say and **if your version of events is more credible, they may find in your favour despite the lack of concrete evidence.**



# The Human Rights Complaints Process



The complaints process involves the following steps:

1) **Filing the Complaint:** You must fill out a Human Rights Complaint Form and send it to the Commission. Complaints forms are available by request from the Alberta Human Rights Commission, from your local AIDS service organization or on the website [www.albertahumanrights.ab.ca](http://www.albertahumanrights.ab.ca)

## Tips for filling out your form:

- When you fill in the box called "On what grounds did the discrimination happen?" make sure you check off every box you think might be relevant. For example, if you think someone is discriminating against you because of your HIV status, but you think it *might* also be because of your race, be sure to check off the box for disability and the box for race. This is important because once you file the complaint, they can only investigate the grounds you have checked off on your complaints form.
- Remember that you are protected from discrimination based on belonging to a protected group or being *perceived* to belong to a protected group. For example, if someone believes that you are HIV positive, and discriminates against you, even if you are not actually HIV positive, they have still broken the law.
- On your complaints form, you can check off boxes for protected grounds, even if you don't actually belong to that protected group.
- When you write your complaint, only include the names of the people you are complaining about. Do not include a list of witnesses or the names of other people involved. You will have a chance to give these names to the investigator if your complaint goes to the investigation stage.

2) **Sending the Complaint to the "Respondent"** The Commission will send a copy of your complaint to the person, business or organization you are complaining about. The Commission will ask them to respond by telling their side of the story.

3) **Sharing the Response with You:** The Commission will send you a copy of the response made by the person you are complaining about.

4) **Conciliation:** A person from the Commission will try to help you and your employer come to some kind of a solution (this is called "conciliation") The person who works with the Commission is supposed to be neutral and not to take sides. They are just there to help you talk, to identify the issues and to help you come up with possible solutions. If you and the person you are complaining about cannot decide on a solution that you are both willing to accept, then you will have to go on to the next step. The information discussed during the conciliation is confidential, and will not be used in the next step.

5) **Investigation:** A different person from the Commission will start a new investigation into your complaint. They will collect information from you and anyone else they should talk to. They will look at any evidence you have. Based on the information they gather, they will decide if discrimination has occurred and, if it has, they will recommend possible solutions. If they do not think discrimination has occurred, they will dismiss your complaint. If for some reason you or the person you file your complaint against refuse to accept the solutions the investigator suggests, your case will either be stopped (if you refuse a reasonable solution) or you may have to go before a human rights panel.

6) **Human Rights Panel:** The panel hearing is like a court case and the decision made by the panel is just as powerful as a court decision. It is very rare for a case to go to a panel hearing.

## Community Resources:

**Alberta Human Rights and Citizenship Commission**  
Suite 310, 525 – 11 Avenue SW  
Calgary, Alberta T2R 0C9

**Confidential Inquiry Line (403) 297-6571**

Toll-free 310-0000 then (403) 297-6571

TTY service Calgary (403) 297-5639

TTY Toll-free within Alberta 1-800-232-7215

## AIDS Calgary

Suite 200, 1509 Centre Street South  
Calgary AB T2G 2E6

**(403) 508-2500**

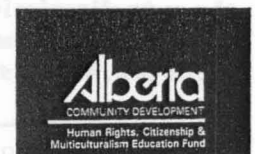
[www.aidscalgary.org](http://www.aidscalgary.org)

## Further Reading:

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**Human Rights Information Sheets.** Alberta Human Rights and Citizenship Commission  
[www.albertahumanrights.ab.ca](http://www.albertahumanrights.ab.ca)



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