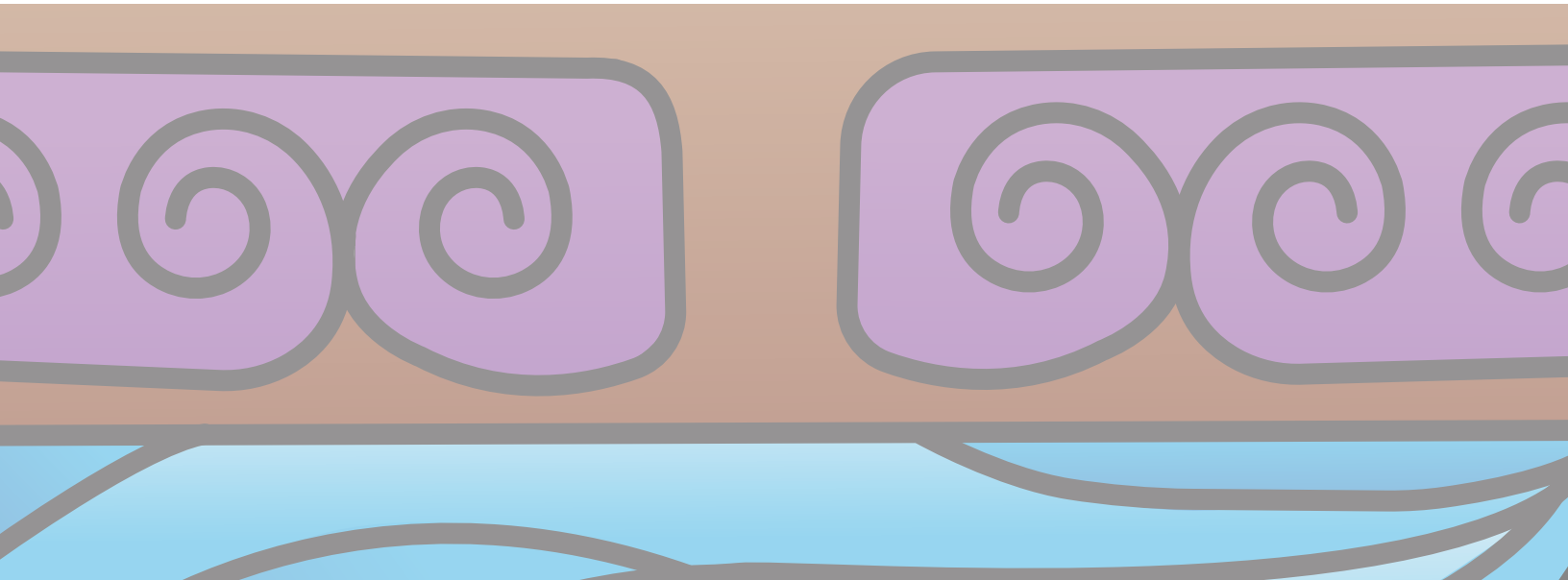
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HUMAN RIGHTS AND HOUSING IN NEW BRUNSWICK

You have a right to be free from discrimination and harassment. In the housing context, this means sellers and landlords of property legally cannot refuse to rent to you, evict you, or otherwise treat you differently based on your identity.

Read more to find out about your rights and what to do if you think you have been discriminated against.



What Are My Human Rights?

The New Brunswick *Human Rights Act* ("the Act") is a provincial law that protects you from discrimination based on your identity or personal characteristics. There are **16 protected grounds:**

- Race
- Colour
- National Origin
- Ancestry
- Place of Origin
- Creed of religion
- Age
- Physical disability
- Mental disability
- Marital status
- Family status
- Sex (including pregnancy)
- Sexual orientation
- Gender identity or expression
- Social condition (including your source of income, level of education, and type of occupation)
- Political belief or activity

The Act protects you from discrimination in **five areas** of your life:

- **Employment** (e.g. in a new or existing job);
- **Services** (e.g. restaurants, businesses, schools, government services);
- **Publicity** (e.g. signs, ads, newspapers);
- **Housing** (e.g. buying, selling, or renting property); and
- Some **business and trade associations** (e.g. a union).

This document will focus on housing. To find out more about the Act more generally, visit the New Brunswick Human Rights Commission website.

The Act applies to private sector businesses, provincial organizations, the provincial government, and New Brunswick municipalities. For federally regulated businesses or governments, such as a First Nation, the *Canadian Human Rights Act* applies. Visit the Canadian Human Rights Commission website for more information.

What Does Discrimination in Housing Look Like?

Discrimination occurs when individuals are treated differently based on one of the protected grounds listed above. Discrimination can be intentional or unintentional. It can be based on prejudice or stereotypes, or it can be an effect of systemic practices or policies.

Discrimination in housing can take many forms. It includes:

- **Limiting or denying housing / housing facilities,** for instance:
  - Advertising property to target or exclude certain groups;
  - Screening out tenant applications based on a racialized name;
  - Assigning higher rents or a less well-maintained unit based on someone's income;
  - Trying to evict someone because they became pregnant.
- **Failing to fulfill landlord obligations,** for instance:
  - Refusing to do repairs on a rental unit;
  - Refusing to return rental deposits.
- **A seemingly neutral rule with negative impacts,** for instance:
  - A rigid "no pets" policy that prevents a person with a disability from relying on their service animal;

As it relates to housing, First Nations people have the right to live free from discrimination or cultural bias when renting housing off-reserve.

This means landlords cannot discriminate against First Nations people for ceremony or cultural practices, or based on their identity. In a case in British Columbia, for instance, the Human Rights Tribunal said that it was discrimination for a landlord to prevent a First Nations tenant from smudging or conducting cultural practices.[1] More information on this can be found in New Brunswick's Guideline on Housing Discrimination.

[1] Smith v. Mohan (No. 2), 2020 BCHRT 52

What Protections Do I Have in Housing?

Right to Reasonable Accommodation

Under the Act, housing providers must **accommodate** legitimate requests related to a protected ground. Examples of accommodations include:

- Installing ramps and elevators for people with mobility issues;
- Using visual fire alarms and doorbells for people with impaired hearing;
- Adding child safety locks on windows or balconies of high rise buildings;
- Providing other methods for proving reliability as tenants, for people who do not have a rental history (e.g. newcomers to Canada, young people, women leaving an abusive relationship).

Accommodations:

- Should respond to your specific needs;
- Should be provided promptly;
- Are usually paid for by the housing provider.

A housing provider may not have to provide an accommodation if the accommodation would cause them **undue hardship** – this means the accommodation would be **too costly** or **create serious health or safety risks.** A housing provider must still consider and provide other possible accommodations.

If you think you need an accommodation, you should request one in writing to your housing provider. You should provide as much information as possible (e.g. details of the requested accommodation, documents to support any medical condition).



What Protections Do I Have in Housing?

Right to Non-discriminatory Terms of Occupancy

Under the Act, you also have a right to housing terms and conditions that do not discriminate based on a protected ground. Terms and conditions of housing cover a range of areas, including:

- Rent prices;
- Length of a lease;
- The emotional and psychological atmosphere of the housing (which may be affected by a landlord's behaviour, for example);
- Access to services in the rental building (e.g. pool, laundry, party room);
- Repair and maintenance of the housing unit.



When Can Differential Treatment Be Legally Justified?

In some situations, a housing provider can legally justify treating someone differently based on a protected ground.

Bona Fide Requirements

A discriminatory decision or outcome may be justified if it is made for a legitimate or **"bona fide"** reason. Whether something is bona fide depends on the situation of each case.

Generally, refusing to accommodate due to undue hardship is a bona fide requirement. For instance, where a housing operation is very small and it would be too costly to install a smoking room, the housing provider may be justified in restricting where a tenant can smoke.

Special Programs to Address Existing Disadvantages

Housing providers may give preference to one or more protected groups to address disadvantages that group is facing. For example, a rental building may reserve certain units for single mothers, based on research that it is difficult for single mothers to find housing in the neighborhood. Other housing providers may design buildings specifically for seniors, university students with families, people with disabilities and so on. This differential treatment is justified, as it aims to remove barriers for disadvantaged groups, and create equality of outcomes.

New Brunswick's Human Rights Commission (the Commission) is the provincial government agency that ensures the human rights of all individuals are protected under the New Brunswick *Human Rights Act*. They must approve any special program.

Some Exceptions in Shared Living Spaces

When property owners or tenants share a room or portion of their home with someone else, they have a right to prefer certain types of roommates, due to how closely they will be living together. For instance, a single woman who lives alone and rents a room in her home would likely be able to justify advertising and renting the room to another woman tenant only.

What to Do if I Experience Discrimination

If you think you have experienced discrimination, you can file a complaint with the Commission. The incident(s) must:

- Have happened **within a year** of the complaint being filed;
- Involve **a provincially-regulated sector or service;** and
- Occurred **in New Brunswick.**

If you wish to discuss a situation you are experiencing and want to know more about filing a complaint, you can contact the Commission at **(506) 453-2301** or hrc.cdp@gnb.ca.

Costs

There is no cost to submit a complaint. The Commission offers free mediation services. In cases where it conducts investigations, there is also no cost associated. Legal representation is optional and not provided by the Commission. If you hire a lawyer, you will be responsible for the associated costs of the lawyer you hired.

Steps to the Complaint Process

Not every case will have the same steps. Generally, the process can include the following steps:

1. **File a complaint using the forms provided by the Commission**

   Forms are found online. Make sure to include as much detail and documentation as possible. You may wish to call the Commission for information on whether the Act may apply to your situation or not, referrals to other relevant organizations or legal advice, and guidance on how to fill out the complaint form. If you are unable to fill out the forms on your own, for example due to a disability, and you require an accommodation, contact the Commission.

2. **Commission review of the complaint**

An officer at the Commission will review your complaint. They will let you know if they need more information. The complaint may be dismissed if there is not enough evidence to support a claim of discrimination. Otherwise, the officer will tell the parties the complaint is moving forward and offer mediation.

3. **Mediation**

If the parties agree to mediate, the Commission will assign a mediator. Mediators do not take sides and do not make any decisions. Rather, they are trained professionals to help the parties communicate and find a solution. Mediation is offered at various stages of the complaint process.

4. **Analysis and investigation**

If mediation does not resolve the matter, the officer will collect more information from the parties. The Commission's legal team will review the file. They may recommend mediation again, dismiss the complaint, or pursue further investigation.

If the file is assigned to an Investigator, they would conduct interviews, gather more evidence, and write a report with their findings. The Investigator may recommend dismissing the complaint or referring it to the Labour and Employment Board for a hearing. The Commission will review the report to decide what to do. They may send the matter to mediation once more.

5. **Hearing**

The Labour and Employment Board holds formal hearings on human rights complaints. It has the power to make final decisions on such complaints. Its decisions are legally binding, and will determine whether discrimination happened and what remedies should be awarded.



Timeline

Complaints can be brought if the alleged incident happened within the last 12 months. If it's been longer than 12 months, you need to file a Time Limit Extension Form.

The complaints process varies in length depending on the circumstances and whether the parties participate in mediation. Some complaints may be resolved in a matter of weeks or months, and others may take years to reach a final resolution.

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