



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

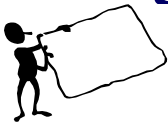
situations that make you think you have been, or are being, discriminated against. Make sure you include who was involved, what happened, and when each event happened (date and time). Gather anything that will support your story (e.g. documents, notes, names of witnesses, copies of bills, receipts or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

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 (403) 297-5639

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

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

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

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
Consumer Tips. Information on Landlords and Tenants. Alberta Government Services, Consumer Services Branch.
www3.gov.ab.ca/gs/information/landlord/index.cfm
Investigating Your Consumer Complaints. Alberta Government Services
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

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