

Complaint Process

May 2017

The New Brunswick *Human Rights Act* includes 16 grounds of prohibited discrimination. It applies to provincially regulated employers, service providers, property owners, governments and certain organizations in both the public and private sectors. The *Act* has separate prohibitions on sexual harassment. The *Act* also prohibits retaliation against someone who files a complaint, assists someone with filing a complaint, or who provides evidence in a complaint.

If someone thinks they have been discriminated against or harassed based on these grounds, they can contact the Human Rights Commission for more information.

A complaint can be filed if the discrimination happened in New Brunswick within the previous year. In some cases, this deadline can be extended. If the complaint seems to fit within the definition of discrimination as defined in the *Human Rights Act*, a person can file a complaint. This does not mean that it has already been determined that the complaint has merit, it only means that further inquiry is required.

GROUNDS OF PROHIBITED DISCRIMINATION

Race, colour, creed or religion, national origin, ancestry, place of origin, age, physical disability, mental disability, marital status, family status, sexual orientation, sex, gender identity or expression, social condition, and political belief or activity, with separate provisions for sexual harassment and reprisal.

CONTACT INFO:

New Brunswick Human Rights Commission, P.O. Box 6000, Fredericton, NB, E3B 5H1
E-mail: hrc.cdp@gnb.ca Web: www.gnb.ca/hrc-cdp
Toll free: 1-888-471-2233, Phone: (506) 453-2301, Fax: (506) 453-2653, TDD: (506) 453-2911

AREAS OF APPLICATIONS

- Employment;
- Public services and facilities;
- Tenancies and sale of property;
- Signs, symbols, and publications;
- Professional, business and trade associations and labour organizations.

Staff at the Commission may suggest early intervention in an attempt to reach a resolution. If that is not possible, the staff will send a complaint kit to the caller asking them to describe the alleged discrimination. This complaint kit will contain a blank complaint form that must be completed by the complainant (the person who is alleging that discrimination has occurred).

EXAMPLES OF PROHIBITED DISCRIMINATION

- An employer refuses to adjust the duties of a disabled employee, even though this would create only a minor disruption;
- An employee sexually harasses a client;
- A landlord refuses to rent to any income assistance recipients.

The complaint form is shared with the person named in the complaint and they are asked to present their side of the situation.

The Commission offers a mediation service to help resolve the dispute. If the complaint cannot be settled through early mediation, the complaint may be investigated. As additional information is collected, the complaint may be closed as being without merit.

The staff interviews the parties and witnesses as required. They then write a report on the investigation with a recommendation to the Commission members, who meet to decide on cases. Both parties can respond in writing to the report. The Commission members can dismiss a complaint, ask for further settlement efforts or refer the matter to the New Brunswick Labour and Employment Board for a hearing.

The Labour and Employment Board will conduct an inquiry into the matter via a hearing that is typically open to the public. The Board is separate from the Commission and at the hearing, the Commission is a separate party to the complaint. The Board can dismiss the complaint or order various remedies, for example, appropriate accommodation, reimbursement for expenses or lost wages, a public letter of apology, and compensation for injury to dignity, feelings and self-respect. Only a few complaints end up at a hearing; most cases are resolved before this step.

Until the matter is referred to the Labour and Employment Board, the complaint process is confidential. In sensitive cases, the Board can keep the identities of the parties confidential.

The decisions of the Commission and of a Board can be reviewed by the courts. Either party can ask Ombud NB to review the process used by the Commission to investigate the complaint.

DID YOU KNOW...

Throughout the complaint process, the objective is to settle complaints.

The Commission does not represent either party, but does represent public interest.

Either party can be represented by a lawyer at their own expense.

It takes on average 11 months to deal with a complaint.