



## **Know Your Rights**

— *What to do about discrimination*

The BC Human Rights Clinic is operated by the Community Legal Assistance Society and funded by the BC Ministry of Justice. We provide free legal representation to complainants who have cases before the BC Human Rights Tribunal and qualify for our services. We also provide education and training to foster a better understanding of human rights law in the province.

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We wish to express our sincere appreciation to the BC Ministry of Justice for its support.



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# 1. What is this booklet about?

## Discrimination and the laws against it

Discrimination — or human rights violations — can happen to anyone. Here are some examples of different kinds of human rights violations:

- You are a waitress and your boss leers at you and grabs you.
- You are Indo-Canadian and you are fired as a “troublemaker” for objecting to racist graffiti at work.
- You are disabled and in a wheelchair. At a restaurant, the manager will not seat you at a table because your wheelchair will take up too much room and damage the walls.
- You are an Aboriginal person asking for a room at a hotel with a vacancy sign. The clerk tells you they are fully booked. But as you leave, you hear a non-Aboriginal person being told that rooms are available.

Human rights violations can interfere with our daily lives. In Canada, federal and provincial human rights laws protect people against discrimination.

The Canadian Human Rights Act covers all businesses and agencies that are regulated by the federal government. The Canadian Human Rights Commission is the federal agency that deals with federal human rights complaints. If a hearing is needed it is heard by the federal Canadian Human Rights Tribunal.

British Columbia’s Human Rights Code (the “Code”) deals with the same issues for the province. Approximately 85% of BC employers are covered by this provincial law.

In BC, we have no Commission only a Tribunal. The Tribunal provides people with an opportunity to resolve complaints through settlement meetings — also known as mediations. If necessary, the Tribunal will also conduct public hearings when mediation does not resolve the complaint.

## BC’s human rights laws

This booklet describes the human rights laws that apply in BC. It explains how the law protects people, how you can make a complaint under the Code, and who will help you. The Code protects our rights in three main areas:

1. Employment
2. Tenancy and buying property
3. Accommodation, services, and facilities usually available to the public

The Code also prohibits publications, notices, and signs that express hatred towards any person or group of people. The Code also protects people against retaliation if they:

- made a complaint or might make a complaint
- are named in a complaint or might be named in a complaint
- give evidence or help some other way in a complaint, or might do so

## How do you know if the federal or provincial law applies?

If you're not sure whether your complaint is federal or provincial, contact the BC Human Rights Tribunal by mail or in person.

1170 – 605 Robson Street  
Vancouver, BC V6B 5J3

Phone: 604-775-2000 or toll free (in BC): 1-888-440-8844

Fax: 604-775-2020

TTY: 604-775-2021

Email: [BCHumanRightsTribunal@gov.bc.ca](mailto:BCHumanRightsTribunal@gov.bc.ca)

The BC Human Rights Clinic — run by the Community Legal Assistance Society — can also explain human rights law. The directory at the end of this booklet has contact information for this clinic and other groups that can help you with your human rights problem.

## 2. What do your human rights include?

The Code prohibits discrimination in these areas:

- Employment
- Tenancy
- Buying property
- Accommodations, services, and facilities usually available to the public
- In publications

### Employment

You cannot be refused work or promotion, be fired, or be forced to work under different conditions because of your:

- Age (19 and over)
- Ancestry
- Colour

- Conviction or charge for a criminal offence that is not related to the work performed
- Family status
- Gender identity or expression
- Marital status
- Physical or mental disability
- Place of origin
- Political belief
- Race
- Religion
- Sex (includes sexual harassment, pregnancy, and gender)
- Sexual orientation (includes protection for heterosexuals, bisexuals, gay men, and lesbians)

### ***Job ads***

Employers are not allowed to exclude any class or group of people from their advertisements, unless that preference is based on a genuine job requirement. For example, an ad for a cab driver could say “sighted people only” — as vision is a reasonable job requirement for driving.

### ***Job applications and interviews***

Employers can ask you personal questions about the categories listed above (age, ancestry, etc.). For example, an employer can ask your age, if you have children, or about your health. However, an employer cannot refuse to hire, provide you a benefit or promote you because of your answers to these questions. If you believe your answers to any of these questions are used to deny you a job or a promotion then you may have a human rights complaint.

### ***Wages***

The Code prohibits discrimination in wages based on sex (gender). However, women often face wage discrimination. Women and men must receive the same rate of pay for work that is the same or very similar.

### ***Unions and other organizations related to employment***

You cannot be excluded, suspended, or discriminated against by any trade union, employers’ organization, or occupational association because of any of the categories listed on pages 5 and 6 (e.g. age, ancestry, etc.).

## **Finding a home**

### ***Tenancy***

A landlord cannot refuse to rent to you — and cannot change any condition of your tenancy (increase the rent, for example) — because of your:

- Age (19 and over)
- Ancestry
- Colour
- Family status
- Gender identity or expression
- Marital status
- Physical or mental disability
- Place of origin
- Race
- Religion
- Sex (includes sexual harassment, pregnancy, and gender)
- Sexual orientation (includes protection for heterosexuals, bisexuals, gay men, and lesbians)
- Source of income

*Note: The ground of Political Belief is not covered under the Code in tenancy.*

### **Exceptions under tenancy**

- The Code does not cover you if you apply to rent a place where sleeping, bathroom, or cooking facilities are shared with the landlord. In these cases, discrimination may be justified. For example, a woman may want to rent only to another woman if she has to share her bathroom with the renter.
- Apartment buildings for people aged 55 or older — and housing designed for people with disabilities — are allowed to prefer people in these groups. After someone has moved in, however, the Code may apply.
- Under the Code, a landlord cannot evict you or refuse to rent to you because of how you legally earn your income. However, a landlord can ask you to show that you can pay the rent.

### **Buying property**

It is discrimination if someone denies you the chance to buy a home or commercial property or home — or land or an interest in land — because of your:

- Ancestry
- Colour
- Gender identity or expression
- Marital status
- Physical or mental disability
- Place of origin
- Race
- Religion

- Sex (includes sexual harassment, pregnancy, and gender)
- Sexual orientation (includes protection for heterosexuals, bisexuals, gay men, and lesbians)

**Note:** The grounds of Age, Family Status and Political Belief are not covered under the Code in the purchase of property.

## **Accommodations, services, and facilities**

### ***Hotels and other places to stay, services, and public places***

You cannot be denied accommodations or services, or the use of facilities that are generally available to the public because of your:

- Age (19 and over)
- Ancestry
- Colour
- Family status
- Gender identity or expression
- Marital status
- Physical or mental disability
- Place of origin
- Race
- Religion
- Sex (includes sexual harassment, pregnancy, and gender)
- Sexual orientation (includes protection for heterosexuals, homosexuals, bisexuals, gay men & lesbians)

**Note:** The ground of Political Belief is not covered under the Code in accommodations, services and facilities.

In addition, the kind of service you get cannot be changed for discriminatory reasons. One example is if you are in a wheelchair and go to a movie theatre where the only space for your wheelchair is in front of the first row of seats with a partial view. If the space is worse than the one offered to other people, this is discrimination.

### ***Exemptions to accommodations and services***

- The Code exempts the category of sex when the issue is maintaining public decency. For example, men cannot use women's change rooms.
- The Code also exempts age, sex, and physical and mental disability for determining premiums and benefits for life or health insurance. However, insurance providers must have good financial reasons or objective evidence for refusing coverage.



## Publications

The Code prohibits publications — including notices, signs, and symbols — that express hatred for any person or group of people because of their:

- Age (19 and over)
- Ancestry
- Colour
- Gender identity or expression
- Family status
- Marital status
- Race
- Religion
- Physical or mental disability
- Place of origin
- Sex (including sexual harassment, pregnancy, and gender)
- Sexual orientation (includes protection for heterosexuals, bisexuals, gay men, and lesbians)

**Note:** The ground of Political Belief is not covered under the Code in publications and this section does not apply to private communications between one person and another.

## Protection from retaliation because of your complaint

The laws protect you from retaliation because you have filed or might file a complaint. They also protect you from retaliation because you are or might be a witness, or because you might help someone who has filed or might file a complaint. The person you name or might name in your complaint cannot punish you in any way. It is retaliation for that person to evict you, intimidate you, impose a penalty on you, or discriminate in any way against you or anyone who helps you.

If someone retaliates against you after you have already filed a complaint, you can file another complaint.

## Exemption under the Human Rights Code

The Code exempts organizations that provide housing, employment, and services to promote the welfare of a particular group or class of people based on their:

- age (19 and over)
- ancestry
- colour
- marital status
- physical or mental disability
- place of origin
- political belief
- race
- religion
- sex or gender identity

Members of a particular group can be given preference. For example, a group that wants to form a housing co-op may give preference to people with disabilities. Or a Chinese service organization may prefer to hire Chinese people.

However, this exemption does not give such groups a general right to discriminate. People in the group could still complain if they faced other kinds of discrimination. Or someone not in the group might have a complaint if they were denied an opportunity that was not related to promoting the interests of the group.

In addition, the BC Human Rights Tribunal can approve special programs that are designed to benefit people who have been historically disadvantaged. For example, education programs can be aimed at Aboriginal or First Nations people.

### **3. Do you have a human rights complaint?**

Here is a step-by-step guide to filing a human rights complaint. Each complaint is different, so you may not need to go through all the steps. Note that this guide only summarizes the complaint process. That process is described in more detail in the Rules of Practice and Procedure of the BC Human Rights Tribunal.

If you have questions about how to file a complaint — or about what you have to do when the BC Human Rights Tribunal deals with your complaint — call the BC Human Rights Clinic.

#### **Who can file a complaint?**

- People who experience discrimination can file a complaint, or they can choose someone else to file it for them.
- If the victim of discrimination is a child — or someone who is mentally or physically incapable — a parent or legal guardian can file the complaint for them.
- An individual or group can file a complaint on behalf of others if the people discriminated against give them permission, or if the BC Human Rights Tribunal believes the complaint is in the interest of a class or group of people.

#### **Before you file a complaint**

##### ***Options for filing a complaint***

Explore your other options first. They may be easier and faster. Filing a human rights complaint is a legal process. If you belong to a union and your complaint is related to work, consider filing a grievance. Employers must provide workplaces free from discrimination, and your union must raise this with the employer. Whatever option you choose, make sure that it gives you legal human rights

solutions. Contact the BC Human Rights Clinic for more information about your options. However, beware that there are time limits for filing a human rights complaint.

### **Gather information**

Before you file a complaint, gather the following information if you can:

- If your complaint is against a company, the company's legal name.
- The full name and address of the person or business or service provider that discriminated against you.
- The date(s) of the incident(s) related to the discrimination.
- The place where the incident(s) occurred.
- The facts of the discriminatory actions.
- All the documents that may relate to the discrimination and any losses you suffered. Documents may include emails, letters, texts, receipts, income tax returns, and medical notes.
- The name and contact information of anyone who witnessed the discrimination or who may have experienced something similar. It can be helpful to get written statements from your witnesses.
- The names of anyone you talked to for help about the discrimination. Write down what they said, and if they took any action.

### **Deadline to file a complaint**

You must file a complaint within six months of the last incident of discrimination. However, in some cases, the BC Human Rights Tribunal may accept complaints after this deadline.

### **What happens when you file a complaint?**

A human rights complaint goes through the four steps outlined in this section. Each complaint is different, and your complaint may not go through all these steps. You can get information on the complaint process from the website of the [BC Human Rights Tribunal](#). You can also get information about Code protections from the "[Human Rights Protection](#)" page of the BC Ministry of Justice. Our publicly funded BC Human Rights Clinic also offers information, advice, and — if you qualify — a lawyer to represent you.

### **Publicly funded representation**

The BC Human Rights Clinic (the Clinic) is run by the Community Legal Assistance Society (CLAS). It is staffed by advocates (paralegals) and lawyers who specialize in human rights law. The Clinic can provide information and advice on your human rights concern, and may be able to provide you with an advocate or lawyer to represent you if your complaint has been accepted by the BC Human Rights Tribunal. Services are available across the province at no cost.

If you ask us to represent you, we look carefully at your situation to decide if you qualify. If we offer you our services, we will need a letter from you authorizing us to act for you. Contact us as early as possible. Please apply no more than 30 days after the Tribunal accepts your complaint.

You can withdraw your complaint at any stage in this process. However, if you withdraw your complaint too late, the respondent (who your complaint is about) may ask for you to pay costs to the other side.

## **4. The four steps in the complaint process**

### **Step one: File your complaint**

To file a complaint, get a copy of the Tribunal's complaint form, fill it in, and file it with the Tribunal. The form asks you to describe your version of what happened, who you are, who you are complaining about, and whether you are interested in trying to resolve your complaint early through mediation. After the Tribunal receives your complaint, it will be assigned to a Tribunal Case Manager.

You can find the complaint form [here](#) on the Tribunal's website.

Your Case Manager will review your complaint form to make sure that it is complete and that it was filed within the six-month time limit. Your Case Manager will also assess your complaint to make sure that the Tribunal has the power to deal with it. If more information is required — or if the Tribunal can't hear your particular complaint — you will have a chance to make changes to your complaint form.

If you put in your complaint form that you are interested in resolving the complaint early by attending a mediation, your Case Manager will ask the other side — called the respondent — if they are also interested. (See Mediations Assisted by the Tribunal on page 14.) If both you and the respondent agree to mediation, your Case Manager will schedule it. If this mediation resolves your issue, your

formal complaint with the Tribunal will end. If the mediation does not resolve all issues in your complaint, the respondent(s) will have to formally respond to your complaint.

### **Step two: Respond to a complaint**

After the Tribunal accepts your complaint, the Case Manager will notify the respondent that a complaint has been filed against them. The Tribunal sends a copy of your complaint form — and other materials submitted with your complaint — to the respondent so they can respond to it.

The respondent has 35 days to respond to your complaint. They must complete a “response to complaint” form, send a copy to you, and file the original response with the Tribunal.

The response form asks for the respondent’s version of the story, and asks if there is a defence to the complaint. The Case Manager will review the form to make sure that all information is complete and that it is filed within the 35-day limit. If more information is required, the respondent will be given time to reply.

Respondents may ask the Tribunal to dismiss all or part of the complaint because they believe one or more of the following:

- the Tribunal does not have the power to hear the complaint
- the acts described in the complaint are not violations of the Code
- there is no reasonable prospect of success
- proceeding with a hearing would not benefit the complainant or carry out the purposes of the Code
- the complaint was filed for improper reasons
- another proceeding has already dealt with the complaint
- the complaint was filed late without a valid excuse

If this happens, you will get a copy of the application asking for a dismissal, and will have a set time to respond. Once the Tribunal has received both parties’ forms and responses — or when the time limits have passed — a Tribunal member will make a decision about whether or not to dismiss the complaint, and notify the parties of that decision in writing.

## **Tribunal Members, Decisions, and Review Process**

Tribunal members are experts in human rights law, and are appointed by the Lieutenant Governor in Council. Members hear and decide complaints under the Code. Members also decide all preliminary applications. Members sometimes conduct settlement meetings.

A Tribunal member's written decision explains their reasons for the decision. If you do not agree with that decision, you may apply for a judicial review. A judicial review asks the court to see if an error was made in reaching that decision. If the court finds an error, the court will set aside the Tribunal's decision, and may tell the Tribunal to hear the complaint again.

### **Step three: The process before the Tribunal hearing**

After the Tribunal accepts a complaint and notifies the parties, the pre-hearing process begins.

#### ***Describe a solution for the discrimination***

This pre-hearing process starts with providing details of the “remedy” or solution in response to the discrimination. You must provide — for the Tribunal and the respondents — details of the remedy or the compensation you want. For example, you may ask to be compensated for your injured feelings, or for your lost wages or your expenses.

#### ***Provide evidence***

Another part of the pre-hearing process is to provide or “disclose” evidence. The Tribunal will set “disclosure” timelines for sharing documents and other evidence between the parties. You both may ask the Tribunal to change these timelines. It's easier to change these timelines if the other party (the respondent) agrees to the change.

#### ***Mediations assisted by the Tribunal***

Mediation may be another pre-hearing step. Mediation provides both parties with a chance to avoid a full Tribunal hearing by reaching your own agreements. It is often the best way for the parties to come to an agreement more quickly. At a mediation meeting, you each present your side of the story — and you listen to the other party's concerns. You then discuss the problem and try to agree on a solution.

Mediators will help both parties explore your options. And mediators may help you to carry out your agreement or “settlement.” If one party does not do what the agreement requires, the other party can go to court to enforce the agreement.

If you are unsure about a mediation meeting or do not know what would be an appropriate solution for your complaint, contact the BC Human Rights Clinic for help.

## Step four: The Tribunal hearing

If mediation does not succeed, a public hearing before a Tribunal member will go ahead. The Tribunal posts the following information on its website 90 days before the hearing:

- Names of both parties (the complainant and the respondent)
- Location of the hearing
- Dates of the hearing
- Reasons for the complaint

Tribunal hearings are open to the public. They are usually conducted by one member (like a judge) of the Tribunal. If your case is complex, a panel of three Tribunal members may hear your complaint.

Both parties give their side of the story. You both talk directly to the Tribunal member, and you also present documents as evidence to support your side of the story. You can also each call witnesses to support your side of the story. You may also call experts — such as a doctor — to support your case. You will have the opportunity to ask the other party’s witnesses to answer questions.

Most decisions are not made at the Tribunal hearing. You may have to wait for a written decision that will include the Tribunal’s reasons for its decision. If the Tribunal decides that discrimination took place, it can order the respondent to do something as a “remedy” or solution. If the respondent does not do what the Tribunal orders, you can file the order at the Supreme Court to have it enforced.

## 5. If you win your case

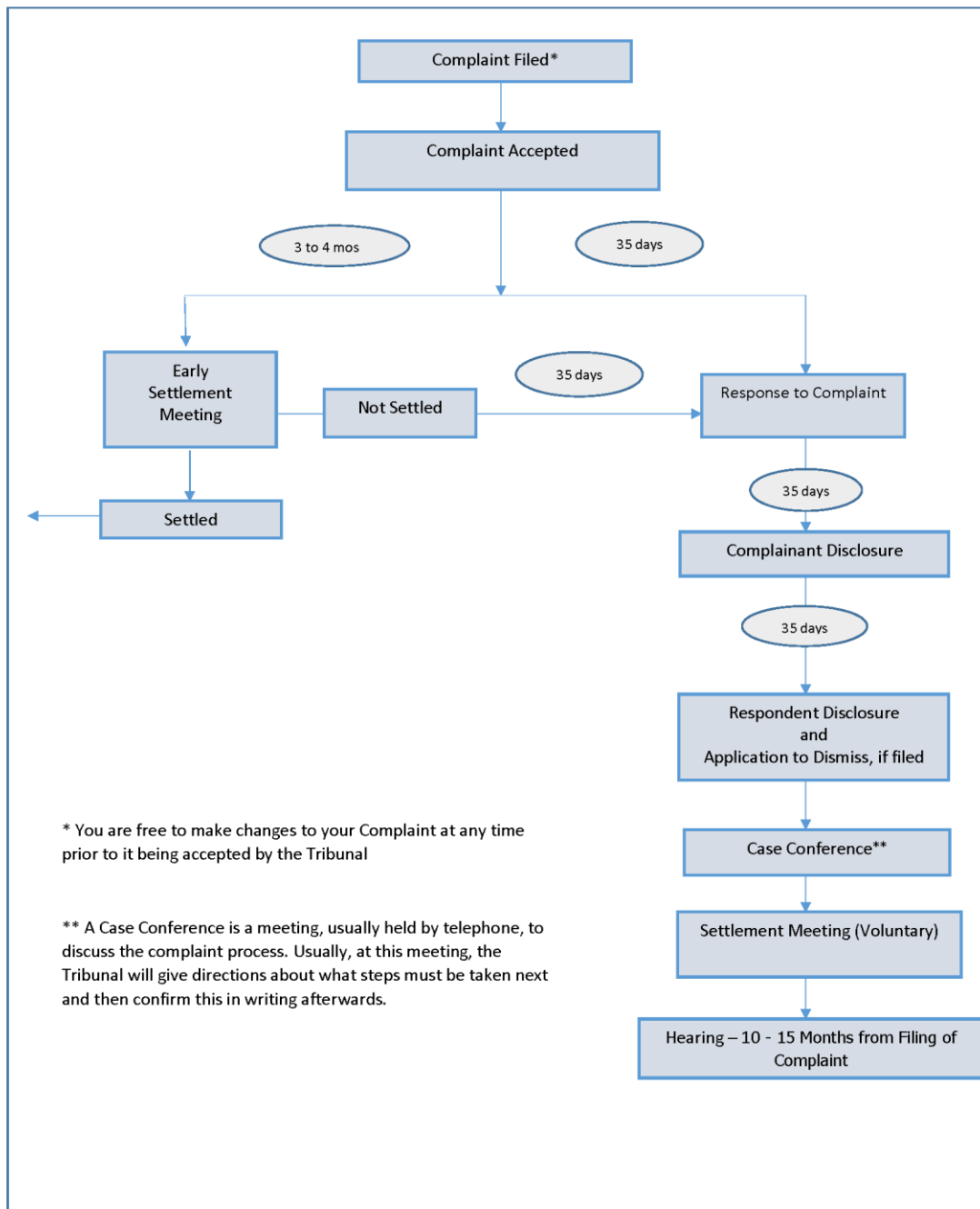
If you win your case, the Tribunal can order the respondent to do one or all of the following:

- Stop the discriminatory practice.
- Give you the right or opportunity that you were denied.
- Pay for your financial losses, for example, lost wages, severance pay, and moving costs.
- Pay you for your hurt feelings and loss of self-respect. This is called injury to dignity. Although there is no limit to how much money the Tribunal can award you, the amount is not usually high.

The BC Supreme Court can review any decision or order made by the Tribunal through a judicial review.

## 6. Chart of the complaint process

This chart summarizes what happens when you file a complaint with the BC Human Rights Tribunal. However, each complaint is different, and your complaint may not go through all these steps.





## 7. Resources

### Enforcing your human rights

#### **BC Human Rights Tribunal**

1170 – 605 Robson Street

Vancouver, BC V6B 5J3

Tel: 604-775-2000

Toll free: 1-888-440-8844

TTY: 604-775-2021 FAX: 604-775-2020

Email: [BCHumanRightsTribunal@gov.bc.ca](mailto:BCHumanRightsTribunal@gov.bc.ca)

Website: [www.bchrt.bc.ca](http://www.bchrt.bc.ca)

#### **Canadian Human Rights Commission**

344 Slater Street, 8th Floor

Ottawa, Ontario K1A 1E1

National Call Centre

Toll free: 1-888-214-1090

TTY: 1-888-643-3304

Fax: 613-996-9661

Hours Monday to Friday: 8:00 am to 8:00 pm (Eastern Time)

### Advocacy and information on your human rights

#### **BC Human Rights Clinic**

300 – 1140 West Pender Street

Vancouver, BC V6E 4G1

Tel.: 604-622-1100

Toll free: 1-855-685-6222

Website: [www.bchrc.net](http://www.bchrc.net)

#### **Access Pro Bono Society of BC**

300 – 845 Cambie Street

Vancouver, BC V6B 4Z9

Client line: 604-878-7400

Toll free: 1-877-762-6664

**The Law Centre (Victoria)**

Help for eligible respondents and complainants

1-250-385-1221

**Local Government Agent Offices — Service B.C.**

Provides access to Tribunal forms and user guides, and assists with filing materials with the Tribunal

Call 1-800-663-7867 and transfer free of charge to your local office.

Vancouver: 604-660-2421

Victoria: 250-952-4111

Website: [www.governmentagents.gov.bc.ca](http://www.governmentagents.gov.bc.ca)

**Ministry of Justice of BC**

Website: [www2.gov.bc.ca/gov/content/justice/human-rights/human-rights-protection](http://www2.gov.bc.ca/gov/content/justice/human-rights/human-rights-protection)

**Other Resources****Community Legal Assistance Society (CLAS)**

300 – 1140 West Pender Street

Vancouver, BC V6E 4G1

Tel.: 604-685-3425

Toll free: 1-888-685-6222

**Disability Alliance of BC**

204 – 456 West Broadway

Vancouver, BC V5Y 1R3

Tel.: 604-872-1278

Toll free: 1-800-663-1278

TTY: 604-875-8835

Website: [www.bccpd.bc.ca](http://www.bccpd.bc.ca)

**Downtown Eastside Women's Centre**

302 Columbia Street

Vancouver, BC V6A 4J1

Tel: 604-681-8480

Website: [www.dewc.ca](http://www.dewc.ca)

**Employment Standards Branch**

Toll free: 1-800-663-3316

**Family Justice Access Centre**

Advice about divorce, child custody, support issues

290 – 800 Hornby Street

Vancouver, BC V6Z 2C5

Tel.: (604) 660 2084

Toll free: 1-800-663-7867

**Labour Relations Board**

Suite 600, Oceanic Plaza

1066 West Hastings Street

Vancouver, BC V6E 3X1

Tel.: 604-660-1300

Fax: 604-660-1892

**Lawyer Referral Service**

Toll free: 1-800-663-1919

**Legal Aid BC**

Toll free: 1-866-577-2525

[www.legalaid.bc.ca](http://www.legalaid.bc.ca)

**MOSAIC**

2nd Floor – 1720 Grant Street

Vancouver, BC V5L 2Y7

Tel.: 604-254-9626

Website: [www.mosaicbc.com](http://www.mosaicbc.com)

**Qmunity**

1170 Bute Street

Vancouver, BC V6E 1Z6

Tel.: 604-684-5307

Website: [www.qmunity.ca](http://www.qmunity.ca)

**Rise Women’s Legal Centre**

Legal services for women with low incomes

201 – 456 West Broadway

Vancouver, BC V5Y 1R3

Tel.: 604-451-7447

**Settlement Orientation Services (SOS)**

ISS of BC Welcome Centre

2610 Victoria Drive

Vancouver, BC V5N 4L2

Tel.: (604) 255 1881

**TRAC Tenant Resource & Advisory Centre**

Telephone 604-255-0546 or

Toll free 1-800-665-1185

Website: [www.tenants.bc.ca](http://www.tenants.bc.ca)

**UBC Law Students Legal Advice Program**

604-822-5791