

# ENVIRONMENTAL SENSITIVITIES & RENTAL HOUSING



## A Self-Advocacy Toolkit

Centre for Equality Rights in  
Accommodation

Working with you to realize your  
housing rights.

## About CERA

The Centre for Equality Rights in Accommodation (CERA) was established in 1987 as an independent not-for-profit legal advocacy organization. CERA has a provincial mandate and our services are free and available to all Ontarians.

We are the only organization in Canada primarily dedicated to fighting discrimination in housing and using human rights principles to challenge housing insecurity and homelessness.



## This Toolkit

This guide was written to help people with Environmental Sensitivities (sometimes called Multiple Chemical Sensitivities or “MCS”) request accommodations for disability from their landlord under Ontario’s *Human Rights Code*. The goal of this resource is to promote tenants’ rights by sharing information and providing guidance for self-advocacy.

## What We Do

- CERA’s public education, outreach and advocacy activities are focused on fighting discrimination faced by low-income and marginalized tenants in the rental housing market. We work to remove barriers that prevent people from accessing and maintaining housing.
- Our Eviction Prevention and Human Rights Hotline provides callers with information and assistance when they are having problems accessing or keeping housing or are experiencing a human rights issue in their housing.

## Contact Us

CERA - Centre for Equality Rights in Accommodation  
164 - 215 Spadina Avenue  
Toronto, Ontario M5T 2C7 Canada

Tel: 416-944-0087

Toll Free: 1-800-263-1139

Email: [cera@equalityrights.org](mailto:cera@equalityrights.org)

# Navigating the Code

## What is the Ontario *Human Rights Code*?

Ontario's *Human Rights Code* (the *Code*) is one of the most important laws in Ontario. The *Code* overrules other laws in the province unless those laws specifically say otherwise. The *Code* promotes equality of opportunity and creates a climate of understanding and mutual respect for the dignity and worth of each person in Ontario.

## Where does the *Code* apply?

The *Code* says that all Ontarians have the right to freedom from discrimination in five areas:

- 1) Employment
- 2) Services (including education and healthcare)
- 3) Trade Unions and Vocational Associations
- 4) Contracts
- 5) Occupancy of Accommodation (Housing)

This toolkit focuses on your rights as they relate to housing, but the principles listed in this resource also apply to the other four areas listed above.

# What is protected by the *Code*?

The *Code* says that every person has a right to equal treatment without discrimination.

The *Code* has sixteen "Prohibited Grounds":

- Race
- Ancestry
- Place of Origin
- Colour
- Ethnic Origin
- Citizenship
- Creed (Religion)
- Sex (including
- Sexual Orientation
- Age
- Marital Status
- Family Status
- Disability
- Receipt of Public Assistance
- Gender Identity
- Gender Expression

**Environmental Sensitivities is recognized as a disability by the Ontario Human Rights Commission. Under the *Human Rights Code*, landlords have a legal duty to accommodate rental housing tenants with all types of disabilities.**

Under the *Code*, **Disability** is defined as any degree of physical disability, condition of mental impairment, developmental disability learning disability, or mental disorder. Disability should be interpreted broadly, and includes both present and past conditions, as well as society's perception of disability. Disabilities can be visible or "hidden" from others. Tenants have the right to the same opportunities and benefits whether their disabilities are visible or not.

## What is Environmental Sensitivities?

Environmental Sensitivities is a condition in which an individual has become sensitive to air contaminants, and exposure to relatively low levels of contaminants such as scented products, fumes, and smoke can trigger a variety of physical reactions.

Environmental Sensitivities can be extremely debilitating. Symptoms can include and are not limited to: neurological symptoms such as trouble concentrating and remembering, seizures, anxiety and depression, respiratory problems such as wheezing and shortness of breath, skin rashes such as eczema and hives, gastrointestinal symptoms such as nausea, bloating and abdominal pain, and muscle or joint pains. While some people will have mild reactions, others can become completely disabled.

Research has revealed that people with allergies to dusts, mould, pollen and animal dander are more likely to have environmental sensitivities and vice versa. The source of sensitivities may not be a single item, but multiple items within a building. Common reported irritants include but are not limited to: perfumes, air fresheners, cleaning products, paint, fumes, and laundry detergent.

When working with residents who have environmental sensitivities, it is important for housing providers to realize that substances in their apartment, the building and on tradespersons and staff can trigger reactions and impact their health. People with this condition, recognized as a disability by the Ontario and Canadian Human Rights Commissions, therefore view defending their safe spaces as a serious matter.

## The Duty to Accommodate

The duty to accommodate is a very important part of the *Code*. It says that structures, rules, policies, or practices may have to be changed so that all people enjoy equal benefit, equal treatment, equal rights, and equal access in their housing. Common reasons that tenants invoke the duty to accommodate are to request procedural and physical changes in their buildings when they live with environmental sensitivities.

### What are the obligations of the person requiring the accommodation?

A tenant who requires accommodation should provide a written request to the landlord explaining the need for accommodation and how it relates to a prohibited ground under the *Code*. Once the request has been made, the tenant should cooperate with the landlord as they discuss accommodation solutions.

A person who requires an accommodation for a medical reason may need to provide a doctor's letter supporting their request. The landlord must bear the cost of obtaining medical documentation in support of an accommodation request.

## What is “undue hardship”?

Landlords are required to take accommodation requests seriously and respond to them in a timely manner. Landlords are only able to deny an accommodation request if they can prove “undue hardship.”

A landlord can only claim undue hardship if accommodating a tenant would seriously threaten the financial viability of their business or endanger the health or safety of other tenants. Both the landlord and the tenant should look into whether any outside sources of funding, such as government grants, are available to help pay for the cost of accommodation. It is the responsibility of the landlord to prove undue hardship. The threshold for undue hardship is high.

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### The Duty to Accommodate is comprised of three principles:

- 1) Respect for dignity,
  - 2) Individualization, and
  - 3) Integration and full participation
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## How CERA Can Help

CERA recognizes indoor environmental health hazards as a serious issue in Ontario's housing stock. As an organization with limited resources and capacity, we are unable to respond to the overwhelming number of requests for assistance and advocacy we receive each year related to accommodations for environmental sensitivities. In response to this need, we have created this Self-Advocacy Toolkit to assist people to claim their rights under the **Code**. We are available as a resource during the accommodation process - we can answer questions, and review some of your documentation. However, we are not able to communicate directly with landlords on your behalf.

If you are living with environmental sensitivities, and require supports for a disability-related accommodation in your rental housing, this Self-Advocacy Toolkit can help. It includes a number of tools that you can use to create an accommodation plan with your housing provider.

If you wish to file an application with the Human Rights Tribunal, you should contact the Human Rights Legal Support Centre for help. They can provide you with free assistance in completing your application.

Human Rights Legal Support Centre

Tel: (416) 597-4900 Toll Free: 1-866-625-5179

TTY: (416) 597-4903 TTY Toll Free: 1-866 612-8627

Unfortunately, due to our limited resources, CERA cannot offer legal advice or representation on individual Human Rights Tribunal applications.

This toolkit is designed to guide you through the process of self-advocacy. Below you will find a sample scenario, a step-by-step guide, and letter templates that can be used to help you navigate the process of enforcing your rights under the **Code**.

### Sample Scenario

Lindy is a 55 year-old woman living in a one bedroom apartment in a multi-residential complex in Mytown, Ontario. After years of suffering with health issues caused by environmental factors, she was recently diagnosed with Multiple Chemical Sensitivities (MCS) by a doctor at the Environmental Health Clinic at Women's College Hospital in Toronto. Since receiving the diagnosis, Lindy has been able to identify various conditions within her building that trigger the symptoms of her disability. When this happens, Lindy experiences difficulty breathing, headaches, physical pain, severe fatigue and poor concentration. Lindy's symptoms are irritated by the cleaning supplies used in common areas of the building and the paint used during renovations in common areas of the building. She is unable to use the shared laundry facilities because the residue left in machines by other tenants' scented detergents caused her to experience negative health effects. Building management recently made upgrades to tenants' washrooms, and a plastic showerhead that was installed in Lindy's washroom is off-gassing, triggering Lindy's symptoms. Lindy has a right to live in home where she can feel safe and healthy, and her landlord has a legal duty to accommodate Lindy's disability. What can Lindy do to enforce her rights?

## What Can Lindy Do To Enforce Her Rights?

### 1) Write a Letter to the Landlord Requesting Accommodation

- Lindy should write a letter to her landlord informing them that she has a disability, detailing concerns and needs related to the disability, and requesting an accommodation under the **Code**. (Please refer to the sample accommodation request letter in this Toolkit). She should ensure that her request includes clear, tangible actions that the landlord can take in order to accommodate her disability. She should be as specific as possible.
- She should keep a copy of the letter and include a deadline by which the landlord needs to respond (unless it's an emergency, you may wish to provide about two weeks for the Landlord to respond).
- Invoking her rights under the Human Rights **Code** means that the landlord has a legal obligation to respond to her request, and if they do not, she could file an application at the Human Rights Tribunal.

- The duty to accommodate under the **Code** requires landlords to cover the cost of accommodations, including the cost of medical documentation to support the accommodation request.

### 2) Obtain Medical Evidence

- Landlords may request a doctor's letter that provides details about your disability related limitations and restrictions, and your accommodation needs.
- Lindy should make an appointment with her doctor and request a letter that explains that she has a disability and describes any limitations and restrictions she has as a result of this disability (Please refer to the sample letter in this Toolkit).
- She does not need to disclose her diagnosis if she is not comfortable doing so. The doctor's letter can simply identify that she lives with a disability, clearly outline the limitations related to the disability, and detail her accommodation needs as a result of those limitations.

### 3) Keep Detailed Records

Lindy should keep a log of dates and times when symptoms have been triggered in the building and note the cause if she knows this information.

- She should keep written records of events and communications with the landlord. The dates and times of incident(s) can be useful evidence if there is a disagreement between a tenant and a landlord. Often using a calendar is a helpful way to record this information.
- Write down everything she can remember about incident(s) – names, dates, and what was said by whom. If she is able to take notes during a conversation or soon afterwards, she will have more information to refer to later.
- Remember that email and text communications can be helpful because they create a dated record of conversations. She should keep a copy of all letters, notes, emails or text messages between her and her landlord.

#### 4) Create an Accommodation Plan

- When the landlord responds to her letter, she can respond in writing and/or set up a meeting to discuss an accommodation plan.
- It is the responsibility of both parties to be open to reasonable suggestions and to discuss and agree to possible solutions in “good faith”.

- Accommodation requests related to MCS can include but are not limited to:
  - ▷ The provision of air filters/purifiers and/or fans
  - ▷ Addressing ventilation concerns
  - ▷ Sealing the rental unit
  - ▷ Transferring the tenant to another unit
  - ▷ Providing temporary accommodation elsewhere (for example, when renovations are happening near the unit)
  - ▷ Requiring the use of unscented cleaning products in the common areas of the building
  - ▷ Requiring the use of low-VOC paints throughout the building
  - ▷ The removal and replacement of certain appliances
  - ▷ Requests that others in the building refrain from using air freshening spray and other scented products
  - ▷ Washer and dryer in a laundry room be designated scent-free, the provision of in suite laundry, or special access hours to the laundry room



## 5) File an Application at Ontario's Human Rights Tribunal

- If the landlord does not respond by the deadline provided, Lindy should follow up in writing to remind the landlord of her outstanding request and their legal duty to respond (see the sample letter in this Toolkit).
- If she does not receive a response from the landlord after these attempts to request accommodation, she may wish to file an application with the Human Rights Tribunal of Ontario. She has one year from the date of the last incident of discrimination or failure to accommodate to file an application.
- Once the application has been filed, if both she and the landlord agree, there will be an opportunity to mediate at the Tribunal to try to settle the issue without a hearing.
- She will need to prepare for mediation and the hearing by gathering all of her evidence and seeking legal advice. The Human Rights Legal Support Centre can provide information and assistance in this regard.
- She should be prepared for a lengthy process, as it can take several months or even a year before a case is resolved.
- Be aware that there is very little existing case law from the Tribunal about MCS in the housing context.

## Ontario Human Rights Tribunal Process





## Sample Letter # 1

A letter to Lindy's landlord requesting accommodation for a disability. She may wish to include the information sheet "Information for Housing Providers Regarding Ontario's Human Rights Code" with the letter.

*Disclaimer: This sample letter is meant to act as a guide only. It is not a substitute for legal advice. If you need legal advice please contact a lawyer. CERA, its funders, and the authors of this document will not be held responsible for any loss or damage caused by reliance on this sample letter.*

*Please note that you do not need to disclose your exact diagnosis unless you are comfortable doing so. You and your doctor can simply refer to your "disability" here if you prefer.*

### SAMPLE LETTER: REQUESTING AN ACCOMMODATION FOR ENVIRONMENTAL SENSITIVITIES UNDER THE CODE

January 1, 2017

SENT BY EMAIL

Mr. John Doe  
ABC Property Management  
1 ABC Street  
Mytown, ON A1A 1A1

Dear Mr. Doe,

I am a resident of 1 ABC Street. I have been diagnosed with Multiple Chemical Sensitivities ("MCS"), a condition that leaves me vulnerable to many common environmental factors. Please see the attached letter from my doctor that explains the limitations related to my disability.

Over the past few months, several conditions in the building have had an adverse effect on my health as a direct result of my MCS. The cleaning supplies used in common areas have caused my symptoms to flare up. Paint used in the hallway has irritated my disability. I am unable to use the shared laundry facilities due to the scented products used by other tenants. Additionally, the plastic shower head that was installed in my unit on December 20, 2016 is off-gassing and I am unable to use it.

I am writing to make a request for accommodation on the basis of a disability as defined by Ontario's *Human Rights Code* ("the *Code*"). In order to ensure that that my health is protected and I have full and equal access to my place of residence, I am requesting that:

- 1) Scent-free cleaning products are used in all common areas.
- 2) Low-VOC paint is used in all common areas.
- 3) One washer and one dryer in the laundry room are designated for use only by tenants using scent-free laundry products.
- 4) The shower head in my washroom is replaced with a metal shower head that will not off-gas.

Please respond to this request by January 15, 2017. Thank you for your attention to this matter.

Sincerely,  
Lindy Park

## Information for Housing Providers Regarding Ontario's *Human Rights Code*

This information sheet is intended to inform landlords about their legal obligations under the *Code* with regarding to accommodations for disabilities in rental housing. It was created by the Centre for Equality Rights in Accommodation.

### Ontario's *Human Rights Code*

The *Code* is an important piece of legislation in the province of Ontario. Its purpose, as stated in the Preamble, is to "provide for equal rights and opportunities without discrimination" and to "create a climate of mutual respect for the dignity and worth of each person". The *Code's* provisions concerning housing state:

s. 2(1) – Every person has a right to equal treatment with respect to the occupancy of accommodation, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status, disability, receipt of public assistance, gender identity or gender expression.

What this means is that everyone in Ontario is entitled to equality in housing – that is, to be free from discrimination in the terms and conditions of a tenancy and the tenancy application process. The *Code* is applicable to public and private housing, as well as to cooperatives and condominiums.

## Disability and the Duty to Accommodate

The Ontario Human Rights Commission's "Policy and Guidelines on Disability and the Duty to Accommodate" set out the definition of disability, as well as obligations in relation to the duty to accommodate and the process involved in such accommodation. The policy is available at: [www.ohrc.on.ca](http://www.ohrc.on.ca).

Disability is defined very broadly and includes:

- Any degree of physical disability, including intermittent disabilities, such as epilepsy;
- Any form of mental disability; and
- Invisible disabilities, such as chronic pain or chemical or environmental sensitivities.

If an individual has a disability and requests accommodation, a housing provider has a duty to accommodate the individual in a manner that:

- Most respects the dignity of the individual;
- Meets individual needs;
- Best promotes integration and full participation; and
- Ensures confidentiality.

A housing provider may only be discharged of its duty to accommodate if it can establish that it would be an undue hardship to provide the accommodation. The housing provider must show that accommodation would be so costly as to affect the very survival of the organization or change its essential nature and that no outside sources of funding are available to assist, or that health and safety risks outweigh any benefit of accommodation. **Failure to respond to an accommodation request from a tenant can result in a case at the Ontario Human Rights Tribunal.**

## Sample Letter # 2

A letter to Lindy's physician outlining the information she requires to support her request for accommodation on the basis of disability.

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### SAMPLE LETTER:

#### REQUESTING MEDICAL DOCUMENTATION FOR ACCOMMODATION FOR ENVIRONMENTAL SENSITIVITIES UNDER THE HUMAN RIGHTS CODE

December 1, 2016

SENT BY MAIL

Dr. Med  
XYZ Avenue  
Mytown, ON  
A1A 1A1

Dear Dr. Med,

RE: Lindy Park, January 1, 1952

I am writing in relation to a request for accommodation for my disability that I am making to my landlord under Ontario's *Human Rights Code*. I am seeking medical documentation from my doctor to support this request.

I kindly request that you provide a letter that addresses the following issues:

1. Please confirm that you are my treating physician,
2. Please confirm the medical conditions, if any, with which I have been been diagnosed (including both physical and mental health conditions), *NOTE: If you do not wish to disclose specific diagnoses, you can instead ask that the doctor confirm that you live with some physical or mental health conditions for which you are receiving treatment.*
3. Please confirm the impairments and restrictions that I experience as a result of these medical conditions, and
4. Please confirm, if possible, what accommodations may be provided by the landlord to meet my needs.

I kindly request that you provide me with the requested report by December 20, 2016.

Sincerely,

Lindy Park

## Sample Letter # 3

A letter to Lindy's landlord following up because they have not responded to her original accommodation request.

*Disclaimer: This sample letter is meant to act as a guide only. It is not a substitute for legal advice. If you need legal advice please contact a lawyer. CERA, its funders, and the authors of this document will not be held responsible for any loss or damage caused by reliance on this sample letter.*

### SAMPLE LETTER: FOLLOWING UP WITH A LANDLORD IF NO RESPONSE TO ACCOMMODATION REQUEST IS RECEIVED

January 20, 2017

SENT VIA EMAIL

Mr. John Doe  
ABC Property Management  
1 ABC Street  
Mytown, ON A1A 1A1

Dear Mr. Doe,

On January 1, 2017 I sent you a letter regarding your legal duty to accommodate my disability of Multiple Chemical Sensitivities ("MCS") under Ontario's *Human Rights Code*. I requested a response to this letter by January 15, 2017. To date, I have received no response from you regarding this accommodation request. I am writing to request an immediate response to my accommodation request originally made on January 1, 2017. I have enclosed a copy of the original request as well as the supporting documentation from my physician that was provided with my letter.

If ABC Property Management fails to respond to this request, I am aware of my rights and may choose to proceed with an application at Ontario's Human Rights Tribunal. I look forward to your prompt reply.

Sincerely,

Lindy Park

# How to File a Human Rights Application

If you have requested an accommodation for disability and your landlord has not responded or has refused to enter into an accommodation plan, you may wish to file an application with the Ontario Human Rights Tribunal. To make a claim with the Tribunal, you must complete a formal application. CERA is not able to assist with writing applications, but in some cases can review completed applications prior to submission.

**Step 1:** Collect the information and evidence you need for your application (ie. any correspondence with your landlord, medical evidence, photographs, etc.)

**Step 2:** Fill out an application. To get an application form, you can contact the Tribunal directly or download a copy from their website: The Human Rights Tribunal is where human rights applications are filed and decided.

1-866-598-0322 or TTY: 1-866-607-1240  
[www.sjto.gov.on.ca/hrto/forms-filing/](http://www.sjto.gov.on.ca/hrto/forms-filing/)

**Step 3:** Once your application is complete, you can send it to the Human Rights Tribunal by mail, email or fax.

Mail: Registrar - Human Rights Tribunal of Ontario, 655 Bay St. 14th Floor Toronto, ON M7A 2A3

Email: [HRTO.Registrar@ontario.ca](mailto:HRTO.Registrar@ontario.ca)

## How does Ontario's human rights system work?

Ontario's human rights system is made up of three separate agencies:

**The Human Rights Legal Support Centre** gives free legal help to people who have experienced discrimination under the *Code* and are considering filing an application at the Tribunal.

Tel: 416-597-4900

Toll Free: 1-866-625-5179

TTY: 416-597-4903

TTY Toll Free: 1-866 612-8627

Monday, Tuesday, Wednesday and Friday: 9 am to 5 pm; Thursday: 2 pm to 6 pm. Consider visiting the website before calling: [www.hrlsc.on.ca](http://www.hrlsc.on.ca)

**The Human Rights Tribunal** is where human rights applications are filed and decided.

**The Ontario Human Rights Commission** works to promote, protect, and advance human rights through research, education, and policy development.

# Online Resources

If you are reading this digitally, below you will find links to relevant articles and organizations that can provide further support and information about Environmental Sensitivities. If you are reading this in print, you can Google these articles and organizations using their titles, or visit CERA's website.

## **Articles by The Centre For Equality Rights In Accommodation (CERA)**

1. [Creating a Healthy Multi-Unit Housing, A Resource Guide](#)
2. [Disability and The Duty To Accommodate](#)
3. [Environmental Sensitivities and Housing \(Includes a list of resources\)](#)
4. [Housing as A Medical Necessity](#)
5. [Testimonials of People Living with Environmental Sensitivities](#)
6. [Trying to Find Environmentally Safe Housing](#)
7. [Unlocking the AODA, Landlords' Obligations Under The Accessibility for Ontarians with Disabilities](#)

## **Helpful Links**

1. [Environmental Health Clinic](#)  
Women's College Hospital
2. [Ontario Community Legal Clinics](#)  
Legal Aid Ontario
3. [Policy On Human Rights and Rental Housing](#)  
Ontario Human Rights Commission
4. [The Ontario Human Rights Code](#)  
Ontario Human Rights Commission
5. [Policy On Ableism and Discrimination Based on Disability](#)  
Ontario Human Rights Commission
6. [Policy Position on Medical Documentation](#)  
Ontario Human Rights Commission



## Other Resources

### **The Human Rights Legal Support Centre**

Tel: 416-597-4900

Toll Free: 1-866-625-5179

TTY: 416-597-4903

TTY Toll Free: 1-866 612-8627

Monday, Tuesday, Wednesday and Friday: 9 am to 5 pm; Thursday: 2 pm to 6 pm. Consider visiting the website before calling: [www.hrlsc.on.ca](http://www.hrlsc.on.ca)

### **The Human Rights Tribunal of Ontario**

General Inquiries can be made by:

Tel: 416-326-1312

Toll-free: 1-866-598-0322

TTY: 416-326-2027

TTY toll-free: 1-866-607-1240

Email: [hrtc.tdpo@ontario.ca](mailto:hrtc.tdpo@ontario.ca)

Web: <http://www.sjto.gov.on.ca/hrto>

### **The Ontario Human Rights Commission**

Information Line: 416-326-9511

TTY: 416-314-0503

Web: <http://www.ohrc.on.ca/>

Email: [info@ohrc.on.ca](mailto:info@ohrc.on.ca)

### **Community Legal Clinics**

Find your local community legal clinic online at:  
[www.legalaid.on.ca/en/contract/](http://www.legalaid.on.ca/en/contract/)

### **Housing Help**

Housing Help Centres can assist you in finding a unit that meets your needs. Find your local Centre at <https://findhousinghelp.ca>

### **Landlord and Tenant Board (LTB)**

The LTB provides information on residential rental units and resolves disputes between most residential landlords and tenants. Staff cannot provide legal advice but can answer questions about: legislation that governs tenants; tenants' rights and responsibilities under the law; specific applications; rules on maintenance and repair of rental properties; rules on automatic rent reductions and other issues addressed in the *Residential Tenancies Act (RTA)*.

Toll Free: 1-888-332-3234

Web: [www.ltb.gov.on.ca/en](http://www.ltb.gov.on.ca/en)

### **Tenant Duty Counsel Program**

When tenants have a hearing with the Landlord and Tenant Board, Tenant Duty Counsel are available to provide legal advice and assistance on the day of the hearing at most LTB locations in Ontario. Should tenants require in depth legal services, they should contact a community legal clinic.

**This booklet was produced by the Centre for Equality Rights In Accommodation. February 2017.**