

BC Human Rights Tribunal

1270 - 605 Robson Street
Vancouver BC V6B 5J3
Phone: 604-775-2000
Toll Free: 1-888-440-8844

Fax: 604-775-2020
TTY: 604-775-2021

GENERAL INSTRUCTIONS

- For more information see the Tribunal's website – www.bchrt.bc.ca
- Follow the instructions for each step
- Fill in the areas for all seven steps
- Use a dark pen and print legibly
- Add extra pages if you need them
- Keep a copy of your Response Form and all of your documents

For assistance with filing your response go to

BC Human Rights Clinic

www.bchrc.net

The Law Centre

Tel: 250-385-1221

www.thelawcentre.ca

STEP 1: NAME THE COMPLAINANT(S)

Print the Complainant's name as it appears on the complaint form.

Print the Tribunal Case Number found in the letter we sent to you notifying you of this complaint.

STEP 2: NAME RESPONDENT(S)

Identify the Respondent(s) who are filing this response form.

If one of the Respondents is submitting a separate response, do not include that Respondent's name on this form.

Print the name of the Respondent(s) as they appear on the complaint form.

If a Respondent's name is misspelled or contains some other error on the complaint form, give the corrected name.

STEP 3: AUTHORITY IF ACTING ON BEHALF OF ANOTHER

You must have authority to file a response on behalf of another individual or a company, organization or association.

Set out your authority in **STEP 3**.

If the Respondent is an individual, you must be their lawyer or have their consent. Otherwise, the individual Respondent must file their own response.

If the Respondent is a company, organization or association, you must be their lawyer or be authorized to act, for example, because you are:

- an officer, for example, the president, secretary or treasurer
- the chair or a designated member of the board of directors
- the owner
- a trustee or administrator

STEP 4: Part A – RESPONSE TO FACTS ALLEGED IN THE COMPLAINT FORM

A Respondent may agree with some, none, or all of what the complaint says. Your response in Part A will tell the Tribunal where you and the Complainant disagree. Be specific about dates and what happened.

Complete Part A. Use a separate sheet for each Respondent.

A Respondent may disagree that a Complainant can prove one or more of the following:

1. The Respondent's conduct took place in an area of discrimination (**STEP 2: Part A** of complaint form)
2. The Complainant has a personal characteristic protected as a ground of discrimination (**STEP 2: Part B** of the complaint form)
3. The Respondent's conduct had an adverse impact on the Complainant (**STEP 3** of the complaint form)
4. There is a connection between the Respondent's conduct and the ground(s) of discrimination (**STEP 3** of the complaint form)

If you are responding to a Retaliation Complaint, see **STEP 3** of the retaliation complaint form.

EXAMPLE 1: An employer might respond to a Complainant alleging she was fired because of her pregnancy, as follows:

1. Agreement that the complaint is about the area of employment
2. Agreement that the ground of sex applies to pregnancy
3. Agreement that the Complainant was fired
4. Disagreement that the pregnancy was connected to the firing

In this example, the Respondent would explain why firing the Complainant was not at all related to her pregnancy.

EXAMPLE 2: A store might respond to a Complainant alleging that the manager made rude comments about his disability, as follows:

1. Agreement that the complaint is about the area of services
2. The store might not know if the Complainant has a disability
3. Disagreement that the store manager made the rude comments and the store's version of what the manager said
4. What the manager said had nothing to do with the Complainant's disability

STEP 4: Part B – JUSTIFICATION FOR RESPONDENT'S CONDUCT AND OTHER DEFENCES

The information provided in **STEP 4: Part A** may be the complete response to the complaint. In other cases, a Respondent may instead or in addition defend against the complaint by explaining its justification for what happened, or that another defence in the *Code* applies. Complete **STEP 4: Part B** if you believe one of the following defences applies.

Justification for the Respondent's conduct

Even if there is a connection between your conduct and a ground of discrimination, your conduct may not be discrimination.

To prove this, you must show that you have taken every reasonable and practical step to avoid the adverse impact on the Complainant. Explain what steps you took. If accommodation was not possible or not successful, explain why.

For example, if an employee with a disability asked her employer to take steps so that she could return to work, the employer may explain:

- each of the steps it took to have the employee return to work
- that there were no other reasonable or practical steps to take because, for example, of the size and resources of the organization, disruption of operations, interference with the rights of others, serious risk, or excessive cost

Also, if you rely on a rule or standard, you must show it was adopted in good faith, and for a purpose related to the function being performed (for example, the job or service).

Other defences that apply in certain situations

- a criminal conviction is related to the employment
- a bona fide seniority scheme based on age
- a bona fide retirement, superannuation or pension plan, or group or employee insurance plans based on marital status, disability, sex or age
- premiums or benefits under health or life insurance contracts based on sex
- shared bathroom, kitchen or sleeping space with the tenant
- tenancy in buildings restricted to persons 55 or over or with a disability (or to two people, one who is 55 or over or has a disability)
- services based on sex to maintain public decency
- legislation or regulations allowing a distinction based on age
- a publication intended to be private
- non-profit organizations with the primary purpose of promoting the welfare and interests of an identifiable group can give preference to group members

STEP 5: OTHER RELATED PROCEEDINGS

The Tribunal may defer a complaint (put it on hold) until another proceeding capable of dealing with a human rights complaint, such as a grievance, has been completed. If a complaint is deferred, the Tribunal will take no further steps until the deferral ends.

STEP 6: COMPLETE THE RESPONSE FORM

After you have filled out the response form:

- keep a copy of the response form and your documents
- make a copy of the response form for the Complainant and any other Respondent(s)
- send your response form to the Tribunal

STEP 7: APPLICATION TO DISMISS

A Respondent can apply to dismiss a complaint within the time limit in the Rules of Practice and Procedure. You can wait to apply to dismiss the complaint, or you can file an application with your response form.

You must comply with your disclosure requirements when you apply to dismiss a complaint. This includes giving the complainant a copy of all documents that may relate to the complaint. For more information, see “Get help with the Tribunal process” on the website www.bchrt.bc.ca.

Some of the reasons for dismissal are:

- the complaint is filed past the one year time limit, but the Tribunal did not ask you to address this issue
- the complaint relates to a federally-regulated entity
- you have taken prompt, effective steps to address the conduct complained of
- the substance of the complaint was resolved in another proceeding
- there is no reasonable prospect the complaint will succeed at a hearing

For more information, see “Respond to a complaint (and apply to dismiss a complaint)” on the website www.bchrt.bc.ca.

WHAT HAPPENS NEXT?

After the Tribunal has received your response form, the Tribunal may:

- defer consideration of the complaint pending the outcome of another proceeding
- contact you to advise of the next step or to set up a prehearing conference
- set a schedule for submissions on your application to dismiss (if you attached one to your response form).

PRIVACY NOTICE

The Tribunal collects personal information to process complaints filed under the *Human Rights Code* and to conduct surveys to evaluate and improve its services under s. 59.1 of the *Administrative Tribunals Act*.

The personal information in this form may be disclosed to members of the public. This is because the Tribunal's process is public:

- The Tribunal publishes most decisions on its website
- The Tribunal publishes a hearing schedule (list of upcoming hearings) with the parties' names and the area(s) and ground(s) of a complaint
- After a complaint is on the hearing schedule, the public has access to information, including the complaint and response forms (except contact information)
- Hearings are open to the public

You can ask the Tribunal to limit the information it makes public. However, the Tribunal will only do so if it decides that your privacy interests outweigh the public interest in access to the Tribunal's proceedings.

For more information, contact the Tribunal Registrar at the address or phone number at the top of this form.



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