



Discrimination in tenancy matters

How to spot it, what to do

When it comes to residential tenancies, there are many types of discrimination which are prohibited by law.

Discriminating in the area of tenancies is prohibited by both the Residential Tenancies Act and the Human Rights Act. If you think you've been illegally discriminated against, you can either make a complaint to the Human Rights Commission, or make an application to the Tenancy Tribunal. However, you **cannot** do both so you have to make a choice. Once that choice is made you cannot apply to the other organisation, even if you change your mind or don't like the outcome. You should seek advice from both the Department of Building and Housing and the Human Rights Commission **before** deciding what to do.

What does the Human Rights Act say?

When a person is treated less favourably than another person in similar circumstances, there is discrimination. It becomes unlawful when the reason for discrimination is one prohibited by the Human Rights Act.

For example, it's illegal for a landlord to deny a tenancy to a person because they belong to a certain church, or to change an existing lease after it has been signed because he or she discovered the tenant is unemployed.

It is unlawful to discriminate in the provision of accommodation on these grounds:

- **Sex** – which includes pregnancy and childbirth
- **Marital status** – which means being single, married, separated, divorced, widowed or in a de facto relationship
- **Religious or ethical belief**
- **Race or colour**
- **Ethnic or national origin** – which includes nationality and citizenship
- **Disability** – including physical or psychiatric illness, or presence in the body of organisms capable of causing illness
- **Age** – which begins at age 16
- **Political opinion**
- **Employment status** – which means being unemployed or a beneficiary or receiving ACC payments
- **Family status** – including having or not having responsibility for children
- **Sexual orientation** – meaning a heterosexual, homosexual, lesbian or bisexual orientation

What does the Residential Tenancies Act say?

This Act makes it unlawful for anyone to discriminate when considering whether to grant a tenancy or deciding to continue, extend or vary an existing tenancy. The Act also prohibits discrimination when deciding to terminate or renew a tenancy.

Also, a person cannot tell someone else to discriminate in any of these situations. For instance, a landlord would be acting unlawfully if they instructed an agent not to rent to a single parent.

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How do I apply to the Tenancy Tribunal?

You can make an application online at www.dbh.govt.nz and pay the \$20 application fee with your Visa or MasterCard.

You can also complete a paper form and send by mail to PO Box 50546 Porirua, fax to 04 237 1058, or email to tapplications@dbh.govt.nz. You must pay the \$20 application fee at Westpac bank or by purchasing pre-paid stickers from the Department of Building and Housing before submitting your application.

At first your application will be referred to a tenancy mediator, who will contact you (the applicant) and the person you're applying against (the other party). The mediator's job is to help the two people sort the matter out between themselves.

If an agreement is reached, the mediator can write it up as an order, which will be binding on you and the other person.

If an agreement cannot be reached, the application will result in a hearing before the Tenancy Tribunal, where each person will give their side of the dispute and the adjudicator (similar to a judge) will decide the matter and make out an order, which will be binding on both people.

If the adjudicator decides there was unlawful discrimination, an order can be made that the person discriminating pay the other person money, and the Tribunal will make an order which will be binding on both parties.

How do I make a complaint to the Human Rights Commission?

Your other alternative is to seek help from the Human Rights Commission. If the complaint is covered by the Human Rights Act, a complaints officer will help both parties reach a settlement.

If a settlement is not reached, the officer will investigate the matter and make a written report. The Commission will consider the complaint, and if it believes the complaint has substance, a further attempt will be made to settle it. If a settlement can't be reached at this stage, the Commission can take the complaint to the Complaint Review Tribunal.

If the Tribunal decides there was unlawful discrimination it can award damages and other remedies.

Who can I contact?

If you think you've been discriminated against, or you want to be sure you are not unlawful in your decisions regarding tenancy matters, you should seek advice from the offices of the Human Rights Commission or the Department of Building and Housing.