

Discrimination Quiz

DISCRIMINATION



QUESTION

What are the consequences of discrimination in workplace for a business?

ANSWER

Complaints of discrimination against a company or business has serious consequences. These has been an uptick in the number of discrimination cases files against companies.

For companies who put their “heads” in the sand with discrimination issues heavy legal and financial penalties will flow.

The Bottom line, is economic – bad publicity, high employee turnover, low employee morale, negative productivity and revenue.

WHY IS IT RIGHT

Discrimination

Discrimination in the workplace occurs when an employee, or a group of employees, is treated differently, negatively or adversely because of their gender, race, colour, culture, nationality, ethnic origin, religion, age, disability, marital status, pregnancy, sexual orientation, trade union membership or activity, or any other prohibited grounds of discrimination.

In other words, discrimination is any action that can be considered a violation of human rights or anti-discrimination legislation.

Grounds for Discrimination

- race
- national or ethnic origin
- colour
- religion
- age
- sex
- sexual orientation
- gender identity or expression

- marital status
- family status
- disability
- genetic characteristics
- a conviction for which a pardon has been granted or a record suspended

There are ways that a person can experience discrimination.

Examples:

- A bank has lending rules that make it unreasonably difficult for new immigrants to get loans. This may be a case of discrimination based on two grounds – **race and national or ethnic origin**.
- A person is systematically referred to secondary screening at airports due to the colour of their skin. This may be a case of discrimination based on the ground of **colour**.
- An employer assigns her employees to weekend shifts without recognizing that some employees observe the Sabbath and cannot work on those days. This may be a case of discrimination based on the ground of **religion**.
- An employer's physical fitness requirements are based on the capabilities of an average 25 year old instead of being based on the actual requirements of the job. This may be a case of discrimination based on the ground of **age**.
- A female employee with an excellent performance record announces that she is pregnant. Immediately, her employer begins to identify performance issues that lead to her dismissal. This may be a case of discrimination based on the ground of **sex**.
- A policy provides benefits to some married couples but not to others. This may be a case of discrimination based on two grounds – **sexual orientation** and **marital status**.
- After having a child, a woman cannot find childcare to continue working overnight shifts, and her employer does not allow flexibility by scheduling her on day shifts. This may be a case of discrimination based on the ground of **family status**.
- An employer requires all employees to have a valid driver's licence. People who cannot drive due to a disability are not given an opportunity to show how they could still perform the job by, for example, using public transit. This may be a case of discrimination based on the ground of **disability**.
- A person is denied a job because of a previous conviction for which a pardon has been granted or a record has been suspended. This may be a case of discrimination based on the ground of **pardoned conviction**.
- Someone is denied a job because they shared the results of their genetic testing with a potential employer. This may be a case of discrimination based on the ground of **genetic characteristics**.
- A policy requires that a person identifies themselves as either male or female. This may be a case of discrimination based on **gender identity or expression**.

Discrimination in the Workplace

Discrimination is still a problem in the Canadian workplace even though there are laws such as the Canadian Human Rights Act and the Canada Labour Code that prohibit such practices.

In addition, the individual provinces of Canada each have their own individual human rights laws and labour legislation to help regulate human behaviour in the workplace. There is also the Criminal Code that protects individuals from physical or sexual assault.

A large percentage of discrimination incidences are not being reported because not all employees know about, or understand, the laws that protect them against discrimination.

Consequences of Discrimination for a Company

Complaints of discrimination against a company can have some serious consequences. As a growing number of employees learn about and start exercising their worker rights, there has been an increase in the number of discrimination cases being filed against companies.

For employers – what you don't know can hurt your company. If you disregard workplace discrimination laws, your company can face heavy legal as well as financial penalties.

In addition, there's also the risk of bad publicity, high employee turnover, and low employee morale. These in turn can negatively impact on productivity and revenue.

Employers Responsibilities for Workplace Discrimination

- Create a workplace that is free from discrimination and harassment
- Provide a mechanism (discrimination policy) for dealing with discrimination when it occurs, and
- Ensure that all employees, as well as management staff, understand the policy
- Respond in a timely manner to complaints
- Discipline those employees found guilty of discrimination
- Carry out managerial and supervisory duties in a manner that does not abuse authority, or intimidate employees.

Responsibilities of Employees

- Keep their work environment free from harassment and discrimination
- Refrain from any behaviour that constitutes or may be considered as discriminatory
- Report any incidents of discrimination or retaliation.

WHY IS EVERYTHING ELSE WRONG

PROTECTION AGAINST DISCRIMINATION IN THE WORKPLACE

- Every employee in Canada is guaranteed protection against discrimination, regardless of employment type or status (e.g. full-time, part-time, contract, temporary, probationary work, and in many cases volunteer work)

PROCEDURES/PROTOCOLS FOR EMPLOYEESTO ENFORCE RIGHT AGAINST DISCRIMINATION PRACTICES

- Each province, as well as the federal government, has set up a Human Rights Commission to administer the particular Human Rights Code (or Act) under

its jurisdiction. Most cases of discrimination fall under provincial Codes, except for those against federally regulated employees, for whom the Canadian Human Rights Act applies.

FILING A COMPLAINT WITH A HUMAN RIGHTS COMMISSION

Every employee has the right to bring a complaint of discrimination or harassment to be investigated and settled by the appropriate Commission. The Commission will work in a neutral manner with both parties to resolve the dispute. Mediation is available; if declined an investigation will then be launched by the Commission, which will result in a recommendation as to how the complaint should be resolved.

The Human Rights Legal Support Centre has an excellent guide to assist you in the process of filing your complaint.

If mediation fails to remedy the situation, a public hearing will take place, during which a Human Rights Tribunal will consider evidence from the complainant, the respondent, and the Commission. If the Tribunal decides that discrimination did take place, it will order a legally binding remedy. For instance, under the Ontario Human Rights Tribunal, remedies may include the following: reinstatement, compensation for lost wages, or compensation for mental anguish.

Who can file a complaint?

Anyone that is legally present in Canada can file a complaint, such as a Canadian citizen, a permanent resident or someone on a visa. If you are not currently in Canada, you can still file your complaint as long as you are legally entitled to return to Canada.

If you are not present in Canada, some exceptions may apply: we may accept complaints from Canadian citizens who are not in the country, but are filing a complaint about something that happened to them when they were in Canada.

You can also get help from someone close to you, such as a friend or family member. You can also be represented by a lawyer, but you do not need a lawyer to file a complaint.

Can I still file a complaint if I am outside the country?

Yes, you must meet the criteria (Canadian citizen, permanent resident, lawfully present or are legally allowed to return to Canada).

Can I file a complaint for another person?

Yes, you can file a complaint on behalf of another person with their written consent or power of attorney. This means that you will be asked to provide the victim's written agreement, or the power of attorney document, in order for the complaint to be accepted. In the event that the person cannot provide their written consent, you may speak with someone at the Commission to discuss the situation.

Can I file a complaint for my child who is under 18?

Yes, you may file on behalf of your child.

Can a person under 18 file a complaint without their parent's consent?

You have to be of legal age in order to submit a complaint on your own behalf.

Can I file a complaint for someone who has died?

No. However, if the person had already begun the complaint process, and dies after we have accepted the complaint, an individual who is representing the estate may contact the Commission for further discussion about the existing complaint.

Can I file a complaint for someone who is in prison?

Yes, you can file on behalf of a person in prison with their written authorization. As noted above, when filing for someone else, you must be able to provide the person's written agreement.

Can I file a complaint for a group?

Yes. As above, you will need to provide written authorization of the named persons in the complaint. If you are the group's formal representative, you will need to complete a form to show on what basis you obtained authority to act as the group's representative and what authority you have been given (e.g., authority to request information, to resolve the dispute, to file a complaint, etc).

If you are not the group's formal representative, you will need to obtain consent from everyone in the group that you can represent them.

Whom can I file a complaint against?

The Canadian Human Rights Act applies to federally regulated institutions such as federal departments, Crown corporations and agencies, First Nations governments, and private companies that are regulated by the federal government such as banks, airlines, trucking companies, broadcasters and telecommunications companies. If you are not sure if the organization you want to complaint about is under federal jurisdiction, please contact us or use the online form to get more information.

HOW TO FILE A COMPLAINT WITH A CANADIAN HUMAN RIGHTS COMMISSION

- using the online complaint form
- emailing the online .pdf form
- faxing the completed form to us at: 613-996-9661
- calling us toll free 1-888-214-1090 (TTY 1-888-643-3304)

Please contact a Human Rights Commission with clear, detailed and specific information about the situation. You will need to provide us with the following:

- your first name and last name
- your telephone number
- your mailing address and email if you have one
- a summary of the incident or situation, including the date, time and location, the ground(s) of discrimination, the negative effect on you, as well as the person or organization you are complaining about.

What happens if the incident occurred in many places? Which location should I indicate on the complaint form?

You'll have to indicate a main location at the top of the form. But then later, in your written narrative, you can list the various places where this happened.

What should I do if I don't remember the exact date of the incident?

Usually we ask for month and year, and an approximate date. You can then discuss it further when you have a conversation with the Commission analyst.

What date should I use if the incident(s) are ongoing?

Please use the date of the most recent incident. You can then discuss it further in your conversation with a Commission analyst.

How long do I have to submit a complaint?

In most cases, you should file your complaint within 12 months of the incident. If you have experienced a prolonged situation of discrimination, the date of the latest incident will be used to base this timeline. In some cases, there may be exceptions: Some cases are accepted after the 12 month delay, in extenuating circumstances such as prolonged illness for example.

I have moved recently. Do I use the address of when it happened or my new address?

In the section of the form called "Your contact information," you should use your most up-to-date mailing address. The location address refers to where the incident occurred.