



# *Human Rights and Housing*

## *Recent Developments in the Law*

November 19, 2019

# *Broad Principles*

“Recognizing the individual worth  
and dignity of every member of  
the human family”

*Preamble,  
The Human Rights Code*

# *Broad Principles*

## *Universal Declaration of Human Rights*

### *Article 25*

“Every person has the right to a standard of living adequate for the health and well-being of himself and of his family, including... **housing.**”

# *Broad Principles*

## **The right to adequate housing includes:**

- Protection against forced evictions and the arbitrary destruction and demolition of one's home;
- The right to be free from arbitrary interference with one's home, privacy and family; and
- The right to choose one's residence, to determine where to live and to freedom of movement
- Security of tenure;
- Housing, land and property restitution;
- **Equal and non-discriminatory access to adequate housing;**
- Participation in housing-related decision-making at the national and community levels.

# *The Human Rights Code*

- Prohibits unreasonable discrimination on the basis of a protected characteristic set out in *The Code*
- Sets out a process for individuals to make complaints of discrimination
- Establishes the Manitoba Human Rights Commission to oversee enforcement of *The Code* and promote human rights in Manitoba

# *Prohibited Conduct*

## ➤ Discrimination

- Treating someone differently on the basis of a protected characteristic, without **reasonable** cause
- Failing to **reasonably** accommodate a person's needs, where they arise from a protected characteristic

## ➤ Harassment on the basis of a protected characteristic

## ➤ Reprisal

# *What are protected characteristics?*

- ancestry, including colour and perceived race
- nationality or national origin
- ethnic background or origin
- religion or creed, religious belief, religious association or activity
- age
- sex, including pregnancy
- gender identity
- sexual orientation
- marital or family status
- source of income
- political belief, association or activity
- physical, or mental disability or related characteristics, including reliance on a service animal
- social disadvantage

# *Where are you protected?*

- Employment
- Public Services
- **Housing**
- Contracts
- Signs and Statements



# Housing as a Human Right: Are We There Yet?

**1.3 million**

people in Canada have experienced homelessness or insecure housing during the past five years

**200,000**

people in Canada experience homelessness in a year

**1,519 people**

experiencing homelessness according to 2018 Winnipeg Street Census (PIT collection)

2018 Winnipeg Street Health Survey participants reported “being judged or treated unfairly by landlords and property personnel” for their:

- **Source of income (25.8%)**
- **Use of alcohol or other substances (24.5%)**
- **Race or ethnicity (21.4%)**
- **Gender, sexual orientation, appearance, age or disability**

Source: Canadian Observatory on Homelessness, State of Homelessness Report, 2016; 2018 Winnipeg Street Health Survey Report; Winnipeg Street Census 2018 Final Report

# *Recent Developments in the Law*

## **A.B. v. Jazco Management (2019)**

- A.B. applied to rent an apartment with landlord. One-bedroom basement suite apartment, \$620/month. Applied with damage deposit on December 18<sup>th</sup>. First to apply.
- A.B. experienced “hidden homelessness” and received EIA – disability, did not possess a credit card. A.B. provided references to confirm income and advised that rental payment would be made directly by EIA office.
- Landlord assessed application using rent-to-income ratio. A.B.’s application rejected as she did not meet ratio.
- When A.B. inquired about the status of her application, she was advised by landlord “I don’t rent to anyone on assistance without a co-signor application.”

# *Recent Developments in the Law*

## **A.B. v. Jazco Management (2019)**

- By the landlord's "strict operation of the rent-to-income guideline...anyone on social assistance would not qualify on their own without a co-signor..."
- In this case, the landlord did not demonstrate that the strict application of the rent-to-income ratio was reasonably necessary to ensure applicants would pay their rent.
- "While a landlord cannot be obliged to rent to someone who does not have enough income to pay the rent... [they] cannot rely on expedient or abstract criteria, such as the rent-to-income ratio, to justify refusal. Instead, a landlord must select or reject a prospective tenants based on non-discriminatory criteria on an individualized basis."

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# Questions?

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