



CANADIAN HUMAN RIGHTS COMMISSION

Investigation



The Canadian Human Rights Commission deals with allegations of discrimination against federally regulated employers, unions and service providers. When possible, the Commission encourages parties to try to resolve such allegations through alternative dispute resolution (ADR). The Commission can help parties resolve disputes informally, as soon as they are brought to its attention, or after a formal complaint has been filed. If the parties cannot resolve the matter themselves, the Commission may investigate the allegations and ask the Canadian Human Rights Tribunal to hold hearings.

When does the Commission carry out an investigation?

When the Commission receives a complaint, it decides whether the person should try to deal with the situation through another process, such as a union grievance or a complaint process under another law. Other processes can sometimes deal with problems more quickly.

Then the Commission encourages the parties to try to resolve the matter through negotiation and mediation. Mediation can help parties better understand each other's point of view. It can also help parties solve the problem quickly and keep it from getting worse.

If the parties cannot resolve the matter, the Commission can assign the complaint to an investigator, who will determine the facts of the case.

What is the purpose of an investigation?

An investigation determines whether there is enough evidence to ask the Canadian Human Rights Tribunal to hold a hearing into the complaint.

The investigation does not determine whether discrimination took place. The Commission does not have that authority. Only the Tribunal can determine whether discrimination occurred.

The Tribunal operates under the *Canadian Human Rights Act* and is independent of the Commission. The Tribunal is much like a court. It conducts public hearings into complaints and can order a remedy if it decides that discrimination occurred.

Who are the investigators and what do they do?

Investigators have training and experience in human rights and investigation techniques. They gather evidence and prepare a report on their findings for the Commission to review. They have no decision-making authority. In addition, they are impartial and do not represent either of the parties involved in the complaint.

- First, the investigators explain the investigation process to the parties and provide information on the *Canadian Human Rights Act*, Commission policy and legal precedents.
- The investigators study all of the information the complainant (the person making the complaint) has provided. They review the complaint and related documents to determine what evidence is needed to shed light on the allegations.
- Then, they ask the respondent (the organization or person named in the complaint) for its version of events. The investigators may speak to the complainant and respondent—or their representatives—several times to clarify both parties' positions and their own understanding of the alleged events.

- The investigators may then interview witnesses to the alleged events, and will consider any other information and documents that could help them understand what took place.
- Next, they analyze all of the information to see whether it supports the allegations in the complaint.
- Finally, they prepare a report on their findings for the Commission to review. The report includes a recommendation to the Commission on whether the complaint should be dismissed or proceed to the next stage.

At any point in the investigation, if the parties wish to try to settle the matter, investigators can help them exchange offers or refer the case to a mediator.

What happens when the investigation is completed?

The investigator prepares a report with a recommendation to the Commission. The parties receive a copy of the report and may submit comments on it within a short time frame, if they wish to do so. In most cases, the Commission shares these submissions with the other party.

When it has received all of the submissions, the Commission reviews the report and submissions. It then decides to take one of the following actions:

- dismiss the allegations if there is no evidence to support them;
- appoint a conciliator to help the parties try to reach a settlement; or
- send the matter to the Canadian Human Rights Tribunal for a hearing.

Then the Commission sends a letter to the parties telling them what it has decided, and what the next steps will be.

What happens after the commissioners have made their decision?

If the commissioners dismiss the complaint, the file is closed and the Commission takes no further action.

If the Commission appoints a conciliator, it advises the parties that a trained, impartial conciliator will contact them to help them discuss and resolve their problems.

If the Commission sends the matter to the Canadian Human Rights Tribunal, it advises the parties that the Tribunal will contact them. The Tribunal will hold public hearings, then make a decision based on the evidence.

What if I disagree with the Commission's decision?

Either party can ask the Federal Court of Canada to review a Commission decision.

FURTHER INFORMATION

For information on all aspects of the dispute resolution process, please visit the Commission's website at www.chrc-ccdp.gc.ca, or contact the following.

The Commission's regional offices:
Halifax, Montréal, Toronto, Edmonton and Vancouver, toll free, at 1-800-999-6899.

The Commission's national office:
344 Slater Street, 8th floor
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