



WORKING TOWARDS INCLUSIVE WORKPLACES, SERVICES AND HOUSING

# Human Rights Legal Support Centre

## Summer 2012

## Focus on mental health

**If an employee has to miss a few days of work because of a broken leg, we would all expect that he or she would go to a doctor and perhaps provide the employer with a medical note about the likely return date. Once back at work, co-workers would probably comment on the broken leg, ask about how it is healing, and sign the cast.**

**For people with mental health disabilities, it is not always so straightforward. Many people are afraid of being stigmatized and don't know how to handle the situation, nor do their colleagues and friends.**

**If you are a person living with a mental health disability, you may not always want to share information about your needs**

with others. You may be afraid to assert your right to be treated equally – at work, school, or in your housing – because of discrimination faced in the past. We all have the right to participate fully in all aspects of our daily lives but people with mental health issues often find themselves facing discrimination, rejection and exclusion.



**Here at the Human Rights Legal Support Centre we have helped many people maintain their employment or housing, or receive services in the way that meets their needs, such as an accommodated program at school.**



### About Us

The Human Rights Legal Support Centre offers services to people throughout Ontario who are discriminated against under Ontario's *Human Rights Code*. We work to help people claim and protect their rights – in many ways: by providing advice on our telephone inquiries line, by reminding employers, landlords and service providers about their obligations, by assisting individuals to file human rights applications, and by representing people at mediations and hearings at the Human Rights Tribunal of Ontario.

### Contact Us

Toll-free: 1-866-625-5179

TTY: 1-866-612-8627

[www.hrlsc.on.ca](http://www.hrlsc.on.ca)

Mailing address:  
180 Dundas St W, 8<sup>th</sup> Floor  
Toronto ON M7A 0A1

# Ontario's *Human Rights Code*

## How are my rights protected under Ontario's *Human Rights Code*?

You are protected from discrimination on the ground of disability in employment, housing, services, membership in unions, trade and vocational associations and contracts.

The term "disability" is defined broadly in the Code, and includes:

"... any degree of physical disability, a condition of mental impairment or a developmental disability, a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language..."

This definition has been interpreted broadly to include past and perceived disabilities as well as existing ones.

Employers, service providers and landlords are required by Ontario's *Human Rights Code* to "accommodate" your disability, meaning to change rules,

standards or procedures, if needed, so that you can participate and get the same benefits as others, regardless of your disability.

Considerable efforts must be taken to accommodate your disability-related needs, even if those efforts are costly or inconvenient. The law requires employers, services providers and landlords to absorb the costs of changing their operations to accommodate your needs unless to do so would cause "undue" hardship to their business, such as a very significant ongoing loss of revenue.



## Working with community partners

The Human Rights Legal Support Centre participates in community outreach initiatives with a human rights focus, working in partnership with Ontario's community legal clinics and community organizations across Ontario. Our goal is to work with community organizations that can intervene to help people understand their rights before their rights are violated, whether at work, in securing housing or when dealing with service providers.

### Accommodation at the Human Rights Legal Support Centre...

Accommodation means making sure you receive the full benefit of our services by providing you with service in a way that responds to your physical, mental, emotional and linguistic needs. We want to make sure that our service is as "barrier-free" as possible. Our premises are accessible to people using assistive devices such as Wheelchairs and service animals (such as guide dogs).

Accommodation could include making sure materials are in the format of your choice, making sure you have frequent breaks, inviting a support person to come with you, taking extra time to make sure you can understand the information you need to make the right choice for you.

If you would like to ask for accommodation in advance of your conversation with us, contact Consuelo Rubio at (telephone) 416-597-4979, (e-mail) [crubio@hrlsc.on.ca](mailto:crubio@hrlsc.on.ca), or any other method with the information provided on the cover. Or, see our accommodation policy at <http://www.hrlsc.on.ca/en/HRLSCAccommodationPolicy.aspx>.

## SETTLEMENTS NEGOTIATED BY THE CENTRE'S STAFF INVOLVING DISABILITY RELATED TO MENTAL HEALTH

### College provides further training to staff working with students with mental health issues

A man had misophonia (extreme sensitivity to particular sounds). Exposure to certain sounds causes him extreme anxiety. He said that fellow students became aware of his condition and started to harass and torment him in class by whistling. He filed a formal complaint with the College, which began to respond. Unfortunately, he could not deal with the stress and he had to leave school and was hospitalized for some time.

The nature of the client's disability led us to request particular accommodations from the HRTO for the mediation, such as rubber soled shoes and pens that do not click.

Our client really wanted the ability to speak to others in the future about his experiences. The Centre negotiated an agreement that allowed him to speak about his experiences as long as he did not mention the name of the College in any way.

The agreement included: financial compensation and confirmation that College would conduct seminars for

staff on working with students with mental health issues.

### Employer agrees to change screening process

A woman had applied for a child and youth worker position. Following the interview, our client was offered the position but required to complete certain background checks including: a police record check, vulnerable sector screening, and "child welfare check". Through the child welfare check request, the Respondent discovered a "family file" at a child welfare agency that contained information regarding the client.

The employer required the client to sign off access to the information in the family file.

disorder" when she was a minor. Our client was never given a chance to rebut the allegations and was never contacted to start her training for the position she had accepted.

The Centre negotiated financial compensation and a letter of apology to the client for the way in which the hiring process unfolded, as well as a commitment to change the screening process for future job applicants, which will include a more informative consent form provided to applicants.

### Company overhauls practices, particularly around mental health

A man was fired while on sick leave for mental health and addiction issues. He didn't know he had been fired until he returned to work with a medical note confirming his ability to work. Unfortunately he died before his human rights application could be heard. During mediation, the employer made a formal apology and told the client's surviving relatives that what had happened to their employee had had a profound effect upon the company and they would make significant changes to ensure that the same thing does not ever happen again.

The employer agreed to:

- Deal separately with employees on disability medical leave and ensure they are in contact with by the EAP (Employee Assistance Program) contact person.

## STATISTICS

The number of inquiries received by the Human Rights Legal Support Centre relating to Disability – Mental or Emotional was:

528

6% of total

April – July 2012

Through the child welfare file, the employer learned that there were allegations that she had "bipolar

*continued...*

- Review all of policies to ensure that they provide specific guidance on recognizing and managing mental health issues affecting employees.
- Train all supervisors and employee relations personnel on managing mental health issues
- Review their employee application form to ensure that it conforms to human rights standards
- Provide financial compensation payable directly to each of the client's surviving two children

## Resources

### HUMAN RIGHTS LEGAL SUPPORT CENTRE

[www.hrlsc.on.ca](http://www.hrlsc.on.ca)

### CANADIAN MENTAL HEALTH ASSOCIATION

[www.cmha.ca](http://www.cmha.ca)

### MENTAL HEALTH WORKS

A nationally available program of the Canadian Mental Health Association (CMHA) that builds capacity within Canadian workplaces to effectively address the many issues related to mental health in the workplace

<http://www.mentalhealthworks.ca/>

### ONTARIO 211

[www.211ontario.ca](http://www.211ontario.ca)

### MENTAL HEALTH HELPLINE

[www.mentalhealthhelpline.ca](http://www.mentalhealthhelpline.ca)

### CANADIAN ASSOCIATION FOR ADDICTION AND MENTAL HEALTH

[www.camh.net](http://www.camh.net)

### KIDS MENTAL HEALTH

[www.kidsmentalhealth.ca](http://www.kidsmentalhealth.ca)

### ONTARIO HUMAN RIGHTS COMMISSION

<http://www.ohrc.on.ca/en/human-rights-and-mental-health>

**CANDADIAN HEARING SOCIETY CONNECT is CHS's mental health counselling service.**

[www.chs.ca/index.php?option=com\\_content&view=article&id=56&Itemid=90&lang=en](http://www.chs.ca/index.php?option=com_content&view=article&id=56&Itemid=90&lang=en)