

# Housing

## Know Your Rights – Legal Information Handbook

July 2022

## Disclaimer

This content is provided as general information and is not legal advice. If you need advice about a specific legal problem, contact a lawyer or a community legal service.

## Acknowledgements

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To learn more about the Know Your Rights – Prince Edward Island Project, please visit our [Know Your Rights – Prince Edward Island webpage](#).

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## My Legal Rights

### Q: What legal rights do I have when it comes to housing in Prince Edward Island?

A: Under Prince Edward Island laws, people with disabilities have important legal rights when it comes to housing. For almost all types of housing in Prince Edward Island:

- You have the right to **equal treatment** in housing where you live or want to live **without discrimination** because of your disability. Your right to equal treatment applies to:
  - the process of looking for housing,
  - the rules and procedures related to your housing,
  - the general enjoyment and use of your unit and premises,
  - the maintenance and repairs of your unit and premises,
  - the services and facilities related to your housing.
- You have the right to receive **accommodations** for your disability from housing providers up to the point of **undue hardship**.
  - Housing providers must provide you with accommodations in a way that respects your dignity, meets your unique individual needs, and promotes your integration and full participation in the housing selection process and use of a rental unit.
  - This right applies to your private living space and to communal areas shared by all residents, such as laundry rooms, foyers, elevators, pools, and outdoor spaces.

- You have the right to be free from **harassment** by your housing provider, their representatives, or any occupants of your building.
- If you are a resident of a Community Care Facility or Nursing Home, you have additional rights under the [Community Care Facilities and Nursing Homes Act Regulations](#), including:
  - The right to be involved with decisions made regarding the operation of the facility
  - The right to a well-kept, comfortable and safe facility.
  - The right to receive consistent, nutritious and culturally or dietary appropriate foods and meals
  - The right to be provided with opportunities for social, leisure and recreational activity

Under PEI's [Rental of Residential Property Act](#), tenants who are occupying spaces under a residential tenancy agreement have additional rights, including (among others), the right to privacy, safety and quiet enjoyment of their rental unit. [Renting PEI](#), a legal information project that was funded by the Government of PEI has created [resources](#) for tenants and landlords to better understand their rights and responsibilities under the **Rental of Residential Property Act**.

## Duty to Accommodate & Undue Hardship

A housing provider's "duty to accommodate" means that they are legally required to provide you with accommodations for your disability so as to ensure that you receive an equal level of access/enjoyment to your rental space and common areas.

The term "accommodation" is not easily defined and will vary from case-to-case, however, accommodations must respect the dignity of the tenant, or prospective tenant, be individualized to their unique needs, and be developed with the view of maximizing their integration and full participation in the housing selection process and use of a rental space.

The duty to accommodate, however, has its limit and this limit is known as "**undue hardship**". **Undue hardship** is a legal term. It means that if a housing provider can show

that it would be very difficult to provide a certain accommodation, then they are not obligated to provide it.

It's important to note that it's not enough for a housing provider to **simply claim** undue hardship. A housing provider **must show clear evidence** of undue hardship. Such evidence can relate to the following factors:

1. High costs associated with a particular accommodation.
2. Balancing the requested accommodation against the rights of other tenants.
3. Health or safety risks associated with a particular accommodation.

Even if a housing provider demonstrates that a certain accommodation will create undue hardship, they may still have a legal duty to provide you with the **next best** type of accommodation.

## Q: Where do my legal rights come from?

A: Your legal rights come from a variety of different laws, including:

- Prince Edward Island's [Human Rights Act](#), which prohibits discrimination based on disability in most areas of public life, including housing.
- The [Rental of Residential Property Act](#), which governs most residential tenancies on PEI and affords certain rights and responsibilities to tenants and landlords.
- The [Building Codes Act](#) which applies to the design, construction, erection, placement, use and occupancy of new buildings; as well as the alteration, demolition, reconstruction and relocation of older buildings. The Act ensures that all buildings meet minimum standards for public health, fire protection, structural sufficiency, and accessibility for people with disabilities.
- Common Law – Laws that are made by the decisions of Courts, Panels and Tribunals.
- The [Condominium Act](#), which establishes the rules of developing, buying, selling and ownership of condominiums on PEI.

- The [Community Care Facilities and Nursing Homes Act](#) and [Regulations](#) which govern the licensing, facility standards and ongoing government inspections of Community Care and Nursing Homes, and give specific rights to residents of Community Care Facilities and Nursing homes.
- The [Co-operative Associations Act](#) and its [Regulations](#), which provide for the incorporation, inspection, examination and supervision of cooperatives in PEI.

**Q: Are there any housing arrangements where I don't have important legal rights?**

**A:** The [Rental of Residential Property Act](#) does not apply to the following kinds of housing arrangements:

- Housing cooperatives
- University or college dorms
- Community care facilities, nursing homes and other similar arrangements which provide health and personal welfare services.
- Temporary shelters such as transition homes and group homes acting under the **Welfare Assistance Act**.
- Short-term rentals where the person stays for less than one month
- Commercial rentals

That said, PEI's human rights laws and the PEI [Human Rights Act](#) continue to apply to the above-listed housing arrangements on PEI.

**Q: Who must comply with Prince Edward Island's housing laws?**

**A:** Prince Edward Island's housing laws generally apply to anyone who provides or receives housing services. This includes:

- Tenants
- Landlords, including individual and corporate landlords

- Representatives of landlords, such as real estate agents and building managers
- Condominium Corporations
- The Prince Edward Island government and its agencies

## **Q: What can I do to enforce my legal rights?**

**A:** If you feel you have been unfairly discriminated against by a housing provider, there are things you can do to stand up for yourself.

In general, you should first try to resolve your concerns by speaking with the people who are directly involved in an informal and collaborative way.

For more resources on self-advocacy, please visit the Self-Advocacy and Essential Legal Information Handbook on CNIB's [Know Your Rights – Prince Edward Island](#) webpage.

If your concerns can't be addressed through collaborative discussions, you should consider consulting with a lawyer who specializes in human rights or housing law to see if any of the following options are appropriate:

- A [complaint](#) with the [PEI Human Rights Commission](#)
- An application with the [Office of the Director of Residential Rental Property](#)
- A complaint to the [Department of Social Development and Housing](#)
- A claim before a PEI Court
- If you are a resident of a [Community Care Facility or Nursing Home](#), there are [various options](#) available to you

You can also contact the [PEI Human Rights Commission](#) by phone at 902-368-4180.

Commission staff cannot offer opinions on the outcome of your complaint, nor can they advise as to whether it will be successful, however, they can provide information as to what the law states and how it may apply to a given situation.



## Common Scenarios

Even though there are laws to protect you from discrimination, people with disabilities still face barriers to being treated equally when it comes to housing.

This section describes barriers that are commonly experienced and suggests practical next steps. Keep in mind that, in most situations, you should first try to resolve your concerns by speaking with the people who are directly involved in an informal and collaborative way.

### Looking for Rental Housing

**Q: I'm trying to complete a housing application form, but it is not in an accessible format. What can I do?**

**A:** Under PEI human rights laws, housing providers have a **duty to accommodate** you up to the point of **undue hardship**. The duty to accommodate applies to the application process as well.

If you find a housing application form that is not in an accessible format, you have the right to request that the form be provided to you in an accessible format. By disclosing your disability and making a request for accommodation, you trigger the housing provider's legal duty to accommodate you up to the point of undue hardship.

If you don't want to disclose your disability to the housing provider before you apply for the unit, you can ask a friend to request a housing application form for you. You can also get help from a local community organization, such as CNIB.

**Q: Am I required to disclose my sight loss to a potential landlord?**

**A:** You are not legally required to share any information with your prospective landlord about your sight loss, however, if you require accommodations for your disability, you will need to provide your housing provider with enough information to understand the accommodations you require.

It is important to keep in mind that the development and implementation of accommodations is a collaborative process. If you require accommodations, your housing provider has the right to obtain information from you about your disability so that they can provide you with appropriate

accommodations. If the housing provider asks for medical documentation about your disability, you should only provide the information that is necessary to explain your need for accommodations. You are not required to tell your housing provider your exact diagnosis, nor are you required to give information to your housing provider that is not related to your need for accommodations.

If your prospective landlord asks you questions about your sight loss and then denies your housing application because of your answers, this could be discrimination. Consider consulting with a lawyer who specializes in human rights or housing law about the options that may be available to you.

**Q: I believe that my housing application was denied because of my sight loss. What can I do?**

**A:** Under the PEI [Human Rights Act](#), you cannot be denied rental housing because of your sight loss.

Sometimes there are clear signs that you are being discriminated against when looking for housing. For example:

- When a housing provider asks intrusive and inappropriate questions;
- When a housing provider makes statements that are offensive or based on false stereotypes; or
- When a housing provider says they cannot rent a unit to you because of your sight loss.

When the signs of discrimination are not as clear, it can be harder to prove that you were discriminated against. Before deciding what to do, it's important to understand how the law applies to your specific situation, even if the signs of discrimination are not obvious.

You should consider consulting with a lawyer who practices human rights or housing law to discuss your [options](#).

**Q: What if I was denied housing because I have a guide dog?**

**A:** You cannot be denied rental housing because you have a service animal, such as a guide dog.

While landlords are allowed to decide whether to allow pets into their building, they are not permitted to enforce a “No Pets” policy against residents who use service animals, nor are they permitted to ask for a damage deposit in respect of the animal.

Furthermore, while landlords can ask if the animal is assisting with a disability and what assistance the animal has been trained to provide, it is **not** appropriate for landlords to ask what your diagnosis is, nor is it appropriate for landlords to request that the animal demonstrate its ability to perform tasks.

For more information about the rights and responsibilities of service providers and people who are accompanied by service animals, you can review the Human Rights Commission of PEI's [guide on Service Animals](#).

If you are denied rental housing because you rely upon a guide dog, you should consider consulting with a lawyer who practices human rights or housing law to see what [options](#) might be available to you. You can also reach out to CNIB for additional support.

## Getting Accommodations

### **Q: I'd like to make changes to my residence to accommodate my sight loss. Is my housing provider required to make these accommodations?**

If you experience difficulties accessing or using your rental unit because of your sight loss, you have the right to ask your housing provider to make changes that will allow you to have an equal level of access/enjoyment to the rental space and common areas as anyone else.

Under PEI human rights laws, housing providers have a legal duty to accommodate you, meaning that they must provide you with accommodations for your disability up to the point of undue hardship.

When developing and implementing accommodations, your housing provider has the right to obtain information from you about your disability so that they can provide an appropriate accommodation. You are not required to tell your housing provider your exact diagnosis, nor are you required to give information to your housing provider that is not related to your need for accommodations.

It is important to remember, however, that selecting an appropriate accommodation is a collaborative process. As a tenant requesting an accommodation, you have a legal duty to collaborate with your housing provider to help them select an appropriate accommodation.

If your request for accommodations is denied, you can politely remind your housing provider that they have a legal obligation to accommodate your disability up to the point of undue hardship.

For more resources on self-advocacy, please visit the Self-Advocacy and Essential Legal Information Handbook on CNIB's [Know Your Rights – Prince Edward Island](#) webpage.

If your housing provider maintains that they are unwilling to accommodate you, then you should consider consulting with a lawyer who practices human rights or housing law about the [options](#) that may be available to you. You can also reach out to CNIB for additional support.

**Q: Do I have to pay for my housing-related accommodations?**

**A:** No. Your housing provider cannot make you pay for reasonable accommodations for your disability. It is your housing provider's legal obligation to provide you with reasonable accommodations up to the point of undue hardship. It's also your housing provider's responsibility to pay for the accommodations.

**Q: My housing provider communicates important information about the building (such as fire alarm testing, repairs, or temporary water shut-off) in an inaccessible format – for example, using posters in common areas or by distributing printed flyers. What can I do?**

**A:** You can make a request to your housing provider to communicate with you using an accessible format. You can provide your housing provider with examples of how they may do so, including accessible pdf, a phone call, or an email.

If the housing provider resists your request, consider advising them that you are asking for the information to be provided to you in accessible format, as an accommodation. Your housing provider has a legal duty to provide you with accommodations for your disability, to the point of undue hardship.

If your concerns remain unaddressed, you should consider consulting with a lawyer who practices human rights or housing law about the [options](#) that might be available to you.

**Q: My housing provider says that my requested accommodations conflict with another law or policy. Does this mean that the accommodations can't be made?**

**A:** If you are told that your requested accommodation conflicts with another law or policy, it's important to keep in mind that in almost all cases, the PEI [Human Rights Act](#) takes priority over other laws and policies. In fact, the PEI Human Rights Act specifically states that: "This Act shall be deemed to prevail over all other laws of this province and such laws shall be read as being subject to this Act."

This means that even if another law or policy conflicts with your requested accommodation, your housing provider still has a legal duty to provide an accommodation for your disability up to the point of undue hardship.

If your housing provider maintains that they are unable to accommodate you, consider consulting with a lawyer who practices human rights or housing law about the [options](#) that may be available to you. You can also reach out to CNIB for additional support.

## **Community Care Facilities and Nursing Homes**

**Q: I am a resident of a Community Care Facility or Nursing Home and I feel that my rights have been violated. What can I do?**

**A:** If you are a resident of a [Community Care Facility or a Nursing Home](#) and you believe that your rights have been violated, you can register a complaint with Health PEI through its [online form](#).

You can also contact the [Department of Health and Wellness](#) to express your concerns.

You may also find it helpful to reach out to a [Patient Navigator](#), who can assist you with accessing needed services and supports.

If you feel that your rights have been violated by a specific health-care professional, another option is to register a complaint with the [regulatory body](#) that regulates the healthcare provider's profession.

You may also wish to consult with a lawyer about other options that may be available to you, such as filing a complaint with the [PEI Human Rights Commission](#).

## Getting Help

### Legal Resources

#### [PEI Human Rights Commission](#)

The **PEI Human Rights Commission** is an independent office of the government of PEI that is responsible for receiving and investigating complaints of discrimination to determine if PEI's [Human Rights Act](#) has been contravened.

For information on [filing a complaint](#) with the Commission, the Commission's website suggests you first read their [guide for making complaints](#)

The Commission also educates the public about human rights through seminars and workshops; and, prepares and distributes [Fact Sheets](#) to assist the public in understanding PEI's Human Rights Act.

You can contact the PEI Human Rights Commission by phone at 902-368-4180. Commission staff cannot offer opinions on the outcome of your complaint, nor can they advise as to whether it will be successful, however, they can provide information as to what the law states and how it may apply to a given situation.

#### [Office of the Director of Residential Rental Property](#)

The **Office of the Director of Residential Rental Property** resolves disputes between landlords and tenants by conducting [rental hearings](#) and issuing decisions. It also provides [information](#) to the public about rent, rental agreements, repair and maintenance, evictions, and other issues related to housing.

## **PEI Regulatory and Appeals Commission (IRAC)**

The PEI Regulatory and Appeals Commission is an independent quasi-judicial tribunal that hears appeals of decisions made under various acts, including orders made under the [Rental of Residential Property Act](#). Anyone who is unhappy with an Order made by the Office of the Director of Residential Rental Property can [appeal](#) to the PEI Regulatory and Appeals Commission.

## **The Law Society of PEI**

The **Law Society of PEI** oversees the legal profession in PEI. The Law Society is the only body that is authorized to determine who may become a lawyer in the province, and is responsible for [responding to complaints about lawyers](#). The Law Society also has a [find a lawyer tool](#) that enables the public to search for lawyers.

## **Community Legal Information (CLI)**

The **Community Legal Information (CLI)** is a not-for-profit organization that provides legal information and education to residents of PEI. CLI develops programs and resources to help individuals better understand PEI's legal system, and how to resolve their legal issues.

CLI can help members of the public by providing general legal information, suggesting resources, and telling people about different options for obtaining legal advice.

CLI also operates the [Law Inquiry Line](#) in addition to offering [lawyer referrals](#). Individuals who contact CLI can receive:

- legal information,
- referrals to law-related agencies, and
- referrals to lawyers, when appropriate. Individuals who contact the Lawyer Referral Service will receive a referral to a lawyer, who will provide a 45-minute consult at a cost of \$25.00.

CLI can be contacted [through its website](#) or by telephone at 902-892-0853 or 1-800-240-9798.

## **Renting PEI – Legal Information for Tenants and Landlords**

**Renting PEI** is a legal education project that was developed by Community Legal Information (CLI) with funding from the Government of PEI. Renting PEI assists tenants on PEI by providing the following services:

- Legal education and resources: Renting PEI's website contains various resources for tenants and landlords, including answers to [frequently asked questions](#) and helpful [guides](#)
- Referrals
- Support during the rental hearing process.

## **Legal Aid PEI**

**Legal Aid PEI** provides legal services to low-income PEI residents in the areas of criminal law, family law, and some civil law matters, including child protection law, involuntary hospitalization under mental health laws, guardianship, and adult protection. Depending on the availability of resources, some assistance may be offered in other civil law areas as well.

When determining whether individuals are eligible for Legal Aid services, Legal Aid PEI considers several factors, including:

- Financial eligibility (which varies, depending on income and family size),
- Urgency and seriousness of the legal needs,
- Coverage and resources of the Legal Aid Program, and
- The individual's ability to obtain legal assistance if Legal Aid is refused.

## **PEI Supreme Courts**

The **PEI Supreme Courts** website provides general information about how Courts in PEI operate, and what to expect if you are attending Court.



It also provides information about the [Pro Bono Legal Advice Clinic \(for Self-Represented Litigants\) Prince Edward Island](#). The Pro Bono Legal Advice Clinic is a free-of-charge legal clinic for self-represented individuals whose family or civil law matter is before the Supreme Court of Prince Edward Island or the Prince Edward Island Court of Appeal. The clinic is held every Wednesday from 9:00AM – 12:00PM at the Sir Louis Henry Davies Law Courts, 42 Water Street, Charlottetown. People who access this service can meet with a lawyer for a 45-minute consultation. Appointments can be scheduled by phone at 902-368-6005, 902-892-0853 or 1-800-240-9798.

## Essential Non-Legal Resources

### [PEI Ombudsperson](#)

The **PEI Ombudsperson** is an independent office of the Legislative Assembly of PEI. The Ombudsperson conducts independent, impartial and non-partisan investigations of [complaints](#) against:

- Boards, commissions, associations and other bodies,
- Health PEI,
- Municipalities,
- Council members,
- Board members, and
- Officers and employees of the Government

The PEI Ombudsperson aims to promote fairness and transparency in the public sector, find fair resolutions, and make recommendations to improve the practices of public agencies.

### [PEI 211](#)

PEI 211 is a free, confidential service that operates 24 hours a day, seven days a week. It exists to connect individuals to government, health and social services that are available across PEI. The

service helps residents of PEI who are looking to find the right community or social resource, but do not know where to start. Individuals can also contact 2-1-1 to report some by-law infractions.

In addition to searching on the [211 PEI website](#), there are [various ways for people to contact PEI 211](#), including calling 2-1-1 to talk with trained professionals to help identify the services that they need.

Services are grouped together into various categories, including (among others) [legal](#), [education](#) and [disabilities](#).

## CNIB Programs

We're here to help – contact CNIB for more programs, support, and resources. Some ways we can assist include:

- [CNIB Virtual Programs](#)
  - CNIB offers a range of free virtual programs for children, youth, adults and families.
  - You can access a list of CNIB's virtual program offerings on [CNIB's website](#). You can also find a list and schedule of PEI's virtual program offerings on [CNIB's PEI website](#).
- [Technology Training](#)
  - Join CNIB tech leads from across the country for programming that highlights the suite of programs, apps, products and services that will help empower you to achieve your personal and professional goals.
- [Virtual Vision Mate](#)
  - The Virtual Vision Mate program exists to address the feelings of isolation that many people with sight loss experience. Through the Virtual Vision Mate program, people who are blind or partially sighted are connected with sighted volunteers to engage in virtual, weekly conversation.

- [CNIB SmartLife](#)
  - CNIB SmartLife is an interactive retail experience that gives people with disabilities hands-on access to the latest breakthroughs in assistive technologies, as well as tried-and-true favourites.
  - SmartLife's goal is not necessarily to sell products but is to give customers the skills and confidence they need to make the most out of assistive tools that can help them lead better lives.
- [CNIB Guide Dogs](#)
  - CNIB Guide Dogs can assist guide dog handlers with advocating for themselves and understanding their rights. This program also provides public education to organizations to provide knowledge about the rights of guide dog users.

## [Vision Loss Rehabilitation Canada](#)

**Vision Loss Rehabilitation Canada (“VLRC”)** is a not-for-profit national healthcare organization and the leading provider of rehabilitation therapy and healthcare services for individuals with vision loss. VLRC's services are tailored to the unique needs and goals of each person they assist. Specifically, VLRC certified specialists provide a range of services that help individuals with vision loss lead more independent, active lives.

You can contact VLRC's PEI office by phone at 902-566-2580.

## **Wayfinding**

Wayfinding refers to technological tools that assist people who are blind, partially sighted or Deafblind with navigation and orientation. Such tools include:

- [BlindSquare](#): a GPS-app developed for people with sight loss that describes the environment and announces points of interest and street intersections.

- [Key 2 Access](#): a pedestrian mobility app that allows users to wirelessly request crossing at intersections without having to locate the button on the pole. It also allows users to wirelessly open doors and obtain information about indoor spaces.
- [Access Now](#): a map application that shares accessibility information for locations based on users' feedback.
- [Be My Eyes](#): a volunteer-based app that connects people with sight loss to sighted volunteers, who can assist with tasks such as checking expiry dates, distinguishing colors, reading instructions or navigating new surroundings.
- The [American Foundation for the Blind](#), which provides an overview of some of the apps that are available to assist consumers with reading items such as product labels and menus

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