



Action for More Independence & Dignity in Accommodation

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Advocacy, Self Advocacy, Rights, Accessibility, & Community Living for People with a Disability

Submission into the Review of the Charter for Human Rights and Responsibilities.

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AMIDA is an advocacy group for people with a disability. We specialize in the housing area.

AMIDA supports the Charter. People with a disability have for too long been seen as deserving recipients of charity rather than citizens entitled to services that are delivered in a way that respects their human rights.

People with a disability are vulnerable to abuse of human rights. However, in response, services have been established or developed in paternalistic, protective ways rather than in ways that respect human rights and dignity of risk. Additionally services have often failed to consider the views of the people with a disability they serve and decision making about services has been staff driven.

We believe the Charter has placed Human Rights in the foreground. The Charter has given legitimacy to the argument for quality services that respect Human Rights. It is disappointing that key service providers such as the Department of Human Services have yet to release their policy on the Charter but we are encouraged that it has at least caused vigorous debate within DHS.

The Charter has meant that services have to listen and think through the way their services impact on Human Rights.

Using the Charter isn't straightforward however and we do think it would be better if there was a complaints mechanism that people could use.

We, in conjunction with the Tenants Union of Victoria, have used the Charter in VCAT for a case on the Residential Tenancies List when representing a person with an intellectual disability who had been given notice to vacate for behavior that breached house rules at a rooming house. This person's disability had impacted on his behavior. We were able to talk about the Charter to ascertain if the landlord has complied with all of its obligations as a Public Authority under the Charter of Human Rights and Responsibilities Act, which include whether the landlord has considered any less restrictive means available to deal with the tenant's breach of his duty rather than / prior to seeking a possession order at VCAT. We were also able to provide as much evidence as possible that indicated the level of hardship the tenant faced if he was evicted. This included the efforts that have been made to obtain any alternative housing, the availability, cost and appropriateness of such housing etc., and also the level of general stress, anxiety and disruption faced by the tenant if required to vacate immediately.

In this case the landlord agreed that these considerations would mediate what they were seeking and they agreed not to apply for a warrant of possession for six months to allow the tenant to continue to pursue an appropriate alternative. They agreed not to apply for a warrant unless the tenant again breached house rules. This was written into the possession order of VCAT by the member.

The tenant continued to pursue alternative housing for the next six months but was unable to obtain appropriate accommodation. The tenant also complied with all house rules for the six month period. As a result the landlord agreed not to pursue a warrant of possession and the order to vacate lapsed. The tenant continues to live in the accommodation with additional outreach support provided through disability services funding.

We consider this a successful use of the Charter. The landlord was able to consider the Charter and agree to a less restrictive course of action in not seeking an immediate warrant of possession. This gave the tenant time to get more support and show he could comply with house rules and is still living there 18 months later.

The lack of affordable and appropriate accommodation and support is a major issue for people with a disability. Although the Charter is helpful to people already in accommodation it would be stronger if it could also address the huge unmet need. People with a disability are vulnerable and being forced into rooming house accommodation as single occupancy rents skyrocket. The lack of housing and support for people with a disability has meant that people can't get access to affordable, appropriate community based housing that meets their human rights.

We also therefore believe the economic, social and cultural rights should be included in the Charter.