



RELATIONSHIPS STATUS – COMMON-LAW OR NOT?

To determine your relationship status based on the tax law, please use the definitions provided by CRA below.

Common-law partner- this applies to a person who is not your spouse, with whom you are in a conjugal relationship, and to whom one of the following situations applies. They

- a. have been living with you for at least 12 continuous months (Note: In this definition, 12 continuous months includes any period you were separated for less than 90 days because of a breakdown in your relationship);
- b. are the parent of your child by birth or adoption;
- c. have custody and control of your child (or had custody and control immediately before the child turned 19 years of age) and your child is wholly dependent on that person for support.

Separated - you are separated when you start living separate and apart from your spouse or common-law partner because of a breakdown in the relationship for a period of at least 90 days and you have not reconciled. Once you have been separated for 90 days (because of a breakdown in the relationship), the effective day of your separated status is the date you started living separate and apart. (Note: You are still considered to have a

spouse or common-law partner if there is no breakdown in the relationship and you were living apart for reasons such as work, studies, health problems, immigration or incarceration.)

Spouse- this applies only to a person to whom you are legally married.

Use the below questions from *Molodovich v. Penttinen*, 4263 A.D. 1979 in determining whether you may be living in a common-law relationship.

1. SHELTER:

- a. Did the parties live under the same roof?
- b. What were the sleeping arrangements?
- c. Did anyone else occupy or share the available accommodation?

2. SEXUAL AND PERSONAL BEHAVIOUR:

- a. Did the parties have sexual relations? If not, why not?
- b. Did they maintain an attitude of fidelity to each other?
- c. What were their feelings toward each other?
- d. Did they communicate on a personal level?
- e. Did they eat their meals together?

- f. What, if anything, did they do to assist each other with problems or during illness?
- g. Did they buy gifts for each other on special occasions?

3. SERVICES:

What was the conduct and habit of the parties in relation to

- a. Preparation of meals,
- b. Washing and mending clothes,
- c. Shopping,
- d. Household maintenance,
- e. Any other domestic services?

4. SOCIAL:

- a. Did they participate together or separately in neighbourhood and community activities?
- b. What was the relationship and conduct of each of them towards members of their respective families and how did such families behave towards the parties?

5. SOCIETAL:

What was the attitude and conduct of the community towards each of them and as a couple?

6. SUPPORT (ECONOMIC):

- a. What were the financial arrangements between the parties regarding the provision of or contribution towards the necessities of life (food, clothing, shelter, recreation, etc.)?
- b. What were the arrangements concerning the acquisition and ownership of property?
- c. Was there any special financial arrangement between them, which both agreed would be determinant of their overall relationship?

7. CHILDREN:

What was the attitude and conduct of the parties concerning children?

For further information, please visit <https://www.canada.ca/en/revenue-agency/services/tax/individuals/topics/about-your-tax-return/tax-return/completing-a-tax-return/personal-address-information/marital-status.html>