

Cohabitation

<http://www.common-law-separation-canada.com/>

"What is a common law relationship?"

A common law relationship is when two people live together in a marriage-like relationship. The two people can be of the same sex or of the opposite sex. No legal formalities are required.

"How long do we need to live together to be considered common law spouses?"

It depends on whether the issue is federal or provincial, and in what province you live. Federal issues include items such as federal government pensions and division of the Canada Pension Plan upon separation. Property division is determined by provincial law and each province has its own definition of what a common law spouse is.

For **Ontario** family law purposes, you must cohabit 3 years, or have a child and a relationship of some permanence.

"How do the courts determine what cohabitation is?"

Generally, a judge will look at the lifestyle of the parties in a common law relationship. The normal test used is the one set out in the Canadian case of *Moldowich v Penttinen*, which sets out the following 7 factors:

1. **Shelter** - did the unmarried parties share accommodation;
2. **Sexual and Personal Behaviour** - did the unmarried parties maintain an intimate interdependent relationship and were they so perceived by others;
3. **Services** - did the common law couple share the traditional functions of a family;
4. **Social** - did the unmarried couple portray themselves as a couple to the outside world;
5. **Societal** - how were the common law partners treated by their community;
6. **Economic Support** - were the unmarried parties economically interdependent; and
7. **Children** - did the unmarried couple see children as part of their home and interact parentally with each others' children.