

## How do I prove co-habitation in Canada?

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Many couples today choose to live together without getting married. To them, sharing a home, expenses and having kids feels just like a legal marriage. But when the relationship ends, one question that comes to mind is “*Were they truly common-law partners under the law?*”

The simple answer will depend on whether the couple was cohabiting in a relationship that *feels and looks like* a marriage. The answer to this question is important, as the rights and obligations of each party, post-separation, depend on whether they were in fact in a common-law relationship.

A couple cohabiting in a common-law relationship may look as simple as two people living together under the same roof, but legally, to be considered “common-law” means more than just being “roommates”. A couple is considered to be cohabiting in a common-law relationship when they live together in a committed relationship that is conjugal in nature and when the relationship looks like a marriage, even though there is no legal paperwork to formalize the union. In other words, the couple has shared their lives together, they make decisions together or for each other, they both contribute to the joint household in some way, they support each other in various ways, and they present themselves to friends, family, and society as partners.

Unless a couple has registered their common-law relationship with Vital Statistics, when there is a disagreement as to whether a couple was common-law, the courts will not just ask if the former partners lived in the same house, but whether, when looking at all the facts, the couple had built a life together. To be considered “common-law” in Manitoba, the couple had to be cohabiting in a relationship together for at least three years or at least one year if they have a child together.

So, how do you prove that you were in a common-law relationship? In many cases, it is clear that a couple did or did not cohabit together as a common-law couple, but in some cases, there are arguments to suggest that a couple was common-law and other arguments to suggest that a couple was not a common-law couple.

When the issue of whether a couple was a common-law couple comes before the court, the court will usually look at the relationship in a big picture way, considering all relevant factors. Some of the common factors considered by the court include:

- Documents showing that both partners lived together at the same address. This could include a joint lease or mortgage documents
- Joint bank accounts or joint credit cards that show the couple conducted at least some of their financial matters together.
- Evidence that the couple contributed to rent, groceries and other household expenses together, rather than each party paying for their own expenses.
- Government records that show that each party used the same address for example tax filings, driver's licences.
- Evidence of naming each other as beneficiaries of insurances policies or pension and workplace benefits.
- Evidence of attending social events together, such as holiday parties or weddings, or hosting others at their home together.

For couples living together, understanding how the court views cohabitation can be helpful. It may not seem necessary to keep records of your cohabitation arrangements, but such records can be important if you are required to prove, or disprove, a common-law relationship in the future.

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