Thursday, 9 May 2019

Jo West

jowest@generalthings.com.au

Dear Jo West

## We have received an unfair dismissal application

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| **Case name** | Zhang v General Things Pty Ltd |
| **Case number** | UD2019-123 |

On 6 May 2019, Lisa Zhang sent us an application saying they were unfairly dismissed by General Things Pty Ltd.

We have attached a copy of the application.

### **The application was lodged late**

The time limit for lodging an unfair dismissal application is 21 days after the dismissal took effect. Lisa Zhang did not apply within the time limit.

The time limit can be extended if a Commission Member thinks there are exceptional circumstances.

Before we refer the case to a Commission Member, you and Lisa Zhang have an opportunity to settle the case.

### What happens next?

We have arranged a time for you and Lisa Zhang to discuss the case. This is called **conciliation**.

The conciliation will be held on Thursday, 23 May 2019. A notice of listing is attached.

### About conciliation

Conciliation is an informal, flexible and confidential approach to resolving cases. It is a voluntary process. You don’t have to take part but most people do. 4 out of 5 cases are resolved by conciliation.

Conciliation is usually done over the phone and is run by a conciliator from the Commission. The process can take up to 2 hours.

You can read more in our [Guide 6 Preparing for a conciliation](https://www.fwc.gov.au/documents/factsheets/Guide_6_PreparingforConciliation.pdf) which you can download from our website.

You can also find out more on our website about:

* [conciliation](https://www.fwc.gov.au/termination-employment/unfair-dismissal/about-conciliation)
* [the unfair dismissal process](https://www.fwc.gov.au/termination-employment/unfair-dismissal/what-the-process-unfair-dismissal-claims)
* [termination of employment](https://www.fwc.gov.au/termination-of-employment).

### Before conciliation

Please complete the following steps **before** the scheduled conciliation:

* Download and complete the [Form F3 Employer response to unfair dismissal application](https://www.fwc.gov.au/content/rules-form/employers-response-unfair-dismissal-application)
* Lodge your completed Form F3 with the Fair Work Commission
* Send a copy of your completed Form F3 to Lisa Zhang at the same time.

Our [Guide 4 Responding to an application](https://www.fwc.gov.au/documents/factsheets/Guide_4_RespondingApp.pdf) and [Guide 5 Objecting to an application](https://www.fwc.gov.au/documents/documents/factsheets/guide_5_objectiontoapp.pdf) may help you to complete the Form F3.

#### How & where to lodge your documents

You can email, post, fax or hand deliver your documents. Contact details for your nearest [Commission office](https://www.fwc.gov.au/disputes-at-work/how-the-commission-works/commission-offices) are on our website. Address them to Unfair Dismissal Rosters.

When sending documents to Lisa Zhang, use the contact details listed on their application form (Form F2).

If you don’t do this, we will forward any documents you send us to the other person. This is to ensure cases are run fairly. If you are worried about particular information being passed on, you should contact us before sending it.

### If the case can’t be settled at conciliation

We will refer the case to a Commission Member if:

* you and Lisa Zhang can’t settle the case at conciliation or
* you or Lisa Zhang decide not to participate in conciliation.

The Commission Member will then consider if there are **exceptional circumstances** and decide whether to extend the time for lodging the application. The Commission Member will contact you for more information before they make a decision.

If the Commission Member decides to extend the time limit for lodging the application, we will schedule a hearing to decide whether the dismissal was unfair. You can [find out more about hearings](https://www.fwc.gov.au/disputes-at-work/how-the-commission-works/about-hearings-and-conferences) on our website.

If the Commission Member doesn’t extend the time limit, the application will be dismissed. This means that the case will be closed and we won’t take any further action.

You can find out more about what exceptional circumstances means in the [Extension of time for lodging an application](https://www.fwc.gov.au/unfair-dismissals-benchbook/making-application/extension-time-lodging-application) section of the Commission’s Unfair dismissals benchbook.

### Special assistance

If you have trouble accessing this information, please contact us. We can post it to you or arrange to provide it in another format.

You can find information about [help for non-English speakers](https://www.fwc.gov.au/about-us/contact-us/accessibility) on our website.

If you have any questions about this letter, please call us on 1800 759 566 or email udt@fwc.gov.au.

Yours sincerely

Fair Work Commission

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| About the legislation, regulations & rulesSection 394 of the *Fair Work Act 2009* provides that an unfair dismissal application must be lodged with the Commission within 21 days after the dismissal takes effect.The Act says that the Commission may allow more time if it is satisfied that there are exceptional circumstances. We will consider:* the reason for the delay
* whether the person first became aware of the dismissal after it had taken effect
* any action taken by the person to dispute the dismissal
* prejudice to the employer (including prejudice caused by the delay)
* the merits of the application, and
* fairness as between the person and other persons in a similar position.
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