



DECISION

Fair Work Act 2009
s.394—Unfair dismissal

Candice O’Meley

v

Bara Barang Corporation Ltd
(U2025/13580)

DEPUTY PRESIDENT BOYCE

SYDNEY, 3 OCTOBER 2025

Application for an unfair dismissal remedy

[1] On 20 August 2025, Ms Candice O’Meley (**Applicant**) filed an application pursuant to s.394 of the *Fair Work Act 2009* (**Act**) with the Fair Work Commission (**Commission**), being an application for an unfair dismissal remedy (**Application**). The Respondent to the Application is Bara Barang Corporation Ltd (**Respondent**).

[2] Direction [3] of the Directions issued on 16 September 2025 reads:

“[2] By **4.00pm AEST on Tuesday, 30 September 2025**, the Applicant must file with the Commission and serve upon the Respondent an outline of submissions, witness statements, and any documents in opposition to the Respondent’s claim of Small Business Employer status.”

[3] The Applicant did not comply with Direction [3] of the Directions issued on 16 September 2025.

[4] On 1 October 2025, at 6:07 PM AEST, the following email (**Show Cause Email**) was sent to the Applicant:

“Dear Ms O’Meley,

Re: U2025/13580 - Ms Candice O’Meley v Bara Barang Corporation Ltd

I refer to the matter above.

Background

On 16 September 2025, the Fair Work Commission issued the **attached** Directions in this matter.

Direction [3] of those directions read as follows:

[3] By 4.00pm AEST on Tuesday, 30 September 2025, the Applicant must file with the Commission and serve upon the Respondent an outline of submissions, witness statements, and any documents in opposition to the Respondent's claim of Small Business Employer status.

To date, Chambers has not received any materials in compliance with Direction [3].

Further directions regarding show cause

In view of the foregoing, the Deputy President directs as follows:

[1] The Applicant is to file with the Commission, and serve on the Respondent, written submissions regarding their non-compliance with directions. Further, the Applicant is to make submissions as to why this matter should not be dismissed. The Applicant is to comply with this Direction by no later than **4:00pm AEST tomorrow, Thursday 2 October 2025.**

[2] If the Applicant does not comply with Direction [1] above, or if the Deputy President is not satisfied by the Applicant's submissions, the matter may be **dismissed** without further notice.

Yours faithfully,

[Associate].”

[5] The Applicant has made no response to the Show Cause Email.

[6] On 2 October 2025 at 5:08pm AEST, my Associate made two phone calls to the Applicant for the purposes of ascertaining her status or position in respect of her unfair dismissal claim. The Applicant did not answer the phone calls. My Associate left a voicemail to contact Chambers by 12:00pm AEST on Friday, 3 October 2025. The Applicant did not contact Chambers by this time.

[7] On 3 October 2025 at 12:02pm AEST, my Associate made a further and final phone call to the Applicant. The Applicant did not answer the phone.

Legislative Provisions

[8] Section 587 of the Act reads:

“587 Dismissing applications

(1) Without limiting when the FWC may dismiss an application, the FWC may dismiss an application if:

(a) the application is not made in accordance with this Act; or

(b) the application is frivolous or vexatious; or

(c) the application has no reasonable prospects of success.

Note: For another power of the FWC to dismiss an application for a remedy for unfair dismissal made under Division 5 of Part 3 2, see section 399A.

(2) Despite paragraphs (1)(b) and (c), the FWC must not dismiss an application under section 365 or 773 on the ground that the application:

(a) is frivolous or vexatious; or

(b) has no reasonable prospects of success.

(3) The FWC may dismiss an application:

(a) on its own initiative; or

(b) on application.”

[9] In *Rebecca Tomas v Symbian Health* [2011] FWA 5458, Commissioner Gooley stated the following with respect to the operation of s.587 of the Act:

“Section 587 gives [the Fair Work Commission] the power to dismiss a matter. Section 587(a), (b) and do not limit [the Fair Work Commission’s] power to dismiss matters for other reasons.”

Consideration

[10] As the Applicant has made no attempt to comply with Direction [3], failed to comply with the Show Cause Email, failed to respond to the telephone messages left for her to call Chambers, and has failed to engage with the Commission (through my Chambers or otherwise) to explain her failures, I have decided to dismiss her Unfair Dismissal Application.

[11] In dismissing the Applicant’s Unfair Dismissal Application, I find that the Applicant’s repeated non-compliance failures are failings of her own personal responsibility (to maintain contact with, and respond to, communications from the Commission). Such behaviour from the Applicant remains wholly unexplained, and is completely unsatisfactory.

[12] Pursuant to s.587(3)(a) of the Act, and for the reasons set out in this decision, the Unfair Dismissal Application filed by the Applicant in these proceedings is dismissed, and file in this matter is closed. An Order dismissing the Application will be published contemporaneously with this decision ([PR792367](#)).



DEPUTY PRESIDENT

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