About the F2 Application Form

Unfair Dismissal

About unfair dismissal

To make an unfair dismissal remedy application to the Fair Work Commission (the Commission), an employee must be covered by the national unfair dismissal laws and must be eligible to make an application. Information about unfair dismissals can be found in the Commission’s unfair dismissal guides.

To be eligible to apply, you must have worked for the minimum employment period and, in some cases, earn less that the high income threshold. The Commission’s Unfair Dismissal Benchbook has information on each of the eligibility criteria.

When you make your application, you will need to show that:

• you have been dismissed and
• the dismissal was harsh, unjust or unreasonable.

This information will assist the Commission in assessing whether your dismissal was unfair.

You cannot make an unfair dismissal application if the dismissal was a case of genuine redundancy.

If you were working for a small business, your employer may object to your application on the grounds that the dismissal was consistent with the Small Business Fair Dismissal Code.

Who can use this form

Use this form if you:

• were an employee covered by the national unfair dismissal laws and
• are eligible to make an application for an unfair dismissal remedy and
• believe you have been unfairly dismissed.

Lodging your completed form

1. Lodge your application, along with any accompanying documents, with the Commission within 21 calendar days after your dismissal took effect. You can lodge your application by post, by fax or by email or in person at the Commission’s office in your State or Territory. You can also lodge online using the Commission’s eFiling service at www.fwc.gov.au.

   **Note:** The Commission will provide a copy of your application and any other documents you lodge with the application to the employer.

2. Pay your application fee at the same time as you lodge your application. The current application fee is available on the Lodge an application page on the Commission’s website www.fwc.gov.au.

   If payment of the fee will cause you financial hardship, you can apply to have the fee waived. You must apply to have the fee waived at the same time as you lodge your application. Download the waiver form from the Commission’s website.
Where to get help

Commission staff & resources
Commission staff cannot provide legal advice. However, staff can give you information on:

- processes in the Commission
- how to make an application to the Commission
- how to fill out forms
- where to find useful documents such as legislation and decisions
- other organisations that may be able to assist you.

The Commission's website www.fwc.gov.au also contains a range of information that may assist.

Throughout this form

This icon appears throughout the form. It indicates information to help you answer the question following.

Legal or other representation

Representation is where another person (such as a lawyer, union official or family member) speaks or acts on your behalf in relation to your matter. There is no requirement for you to be represented when you appear at the Commission. You will need the permission of the Commission member dealing with your case if you wish to be represented by a lawyer or paid agent at a conference or hearing unless that person is:

- employed by a union or employer organisation, a peak union or peak employer body, or
- one of your employees or officers (if you are an employer).

If you decide to represent yourself in proceedings you will need to make sure you are well prepared.

Glossary of common terms

Applicant—This is the person or organisation that is making an application.

Jurisdictional objection—This is a type of objection a Respondent can raise to an application. A Respondent can make this kind of objection if they think that the Commission, for a technical or legal reason, cannot hear the matter.

Party—A party is a person or organisation involved in a matter or case that is brought to the Commission.

Respondent—The person or business responding to an application made by an Applicant.

Service—Serving a document means giving a copy of the document to a person or organisation, usually to the other party to the matter. You can serve a document in a number of ways, including by email, fax, express or registered post, or in person. Parts 7 and 8 of the Fair Work Commission Rules 2013 deal with service.

Privacy

The Commission collects the information (including personal information) provided to it in this form for inclusion on the case file, and may disclose this information to the other parties to this matter and to other persons. For more details of the Commission’s collection, use and disclosure of this information, please see the Privacy Notice for this form, or ask for a hard copy to be provided to you.

Remove this cover sheet and keep it for future reference—it contains useful information
Form F2—Unfair Dismissal Application
Fair Work Act 2009, s.394

This is an application to the Fair Work Commission for an unfair dismissal remedy in accordance with Part 3-2 of the Fair Work Act 2009.

The Applicant
These are the details of the person who is making the application. Please make sure you provide a telephone number for the conciliation conference.

<table>
<thead>
<tr>
<th>Title</th>
<th>[ ] Mr [ ] Mrs [ ] Ms [x] Other please specify: Miss</th>
</tr>
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<tbody>
<tr>
<td>First name(s)</td>
<td>Jane</td>
</tr>
<tr>
<td>Surname</td>
<td>Smith</td>
</tr>
<tr>
<td>Postal address</td>
<td>1 Lane Street</td>
</tr>
<tr>
<td>Suburb</td>
<td>Melbourne</td>
</tr>
<tr>
<td>State or territory</td>
<td>Vic</td>
</tr>
<tr>
<td>Phone number</td>
<td></td>
</tr>
<tr>
<td>Mobile number</td>
<td>0123 456 789</td>
</tr>
<tr>
<td>Email address</td>
<td><a href="mailto:j.smith@email.com">j.smith@email.com</a></td>
</tr>
</tbody>
</table>

Note: If you provide a mobile number the Commission may send reminders to you via SMS.

Does the Applicant need an interpreter?
If the Applicant requires an interpreter (other than a friend or family member) in order to participate in conciliation, a conference or hearing, the Fair Work Commission will provide an interpreter at no cost.
[ ] Yes—Specify language
[x] No

Does the Applicant require any special assistance at the hearing or conference (e.g. a hearing loop)?
[ ] Yes— Please specify the assistance required
[x] No

Does the Applicant have a representative?
A representative is a person or business who is representing the Applicant. This might be a lawyer, a union or a family member or friend who will speak on behalf of the Applicant. There is no requirement to have a representative.
[ ] Yes—Provide representative’s details below
[x] No
Applicant’s representative

These are the details of the person or business who is representing the Applicant.

<table>
<thead>
<tr>
<th>Name of person</th>
<th>Firm, union or company</th>
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<tbody>
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<table>
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<th>Postal address</th>
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<tr>
<th>State or territory</th>
<th>Postcode</th>
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<th>Phone number</th>
<th>Fax number</th>
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<tr>
<th>Email address</th>
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The Respondent

These are the details of the person or business that the Applicant is making the application about. Note that the Commission will send a copy of your application to the contact person you name below.

<table>
<thead>
<tr>
<th>Legal name of business</th>
<th>Jones Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trading name of business</td>
<td>The Working Place</td>
</tr>
<tr>
<td>ABN/ACN</td>
<td>12 345 678 910</td>
</tr>
<tr>
<td>Contact person</td>
<td>John Jones (manager)</td>
</tr>
<tr>
<td>Postal address</td>
<td>100 The Avenue</td>
</tr>
<tr>
<td>Suburb</td>
<td>Melbourne</td>
</tr>
<tr>
<td>State or territory</td>
<td>Vic</td>
</tr>
<tr>
<td>Postcode</td>
<td>3000</td>
</tr>
<tr>
<td>Phone number</td>
<td>(01) 9876 5432 0987 654 321</td>
</tr>
<tr>
<td>Fax number</td>
<td>(01) 2345 678 910</td>
</tr>
<tr>
<td>Email address</td>
<td><a href="mailto:J.Jones@workingplace.com">J.Jones@workingplace.com</a></td>
</tr>
</tbody>
</table>

1. Your employment

1.1 What date did you begin working for your employer?

   January 2014

1.2 What date were you notified of your dismissal?

   29 June 2014
1.3 What date did your dismissal take effect?

27 June 2014

1.4 Are you making this application within 21 calendar days of your dismissal taking effect?

[ ] Yes

[ ] No

If you answered no to question 1.4—Explain the reason for the delay, including any steps you have taken to dispute the dismissal or any other reason you think the Commission should take into account in considering whether to accept your application out of time.

1.5 Have you made another claim to the Commission or to any other organisation regarding your dismissal (e.g. a general protections application)?

The Commission cannot consider an application for an unfair dismissal remedy if you have made another claim in relation to the dismissal, for example a general protections dispute in relation to the dismissal or a complaint to the Human Rights Commission in relation to the dismissal. If you answered yes to question 1.5, you will need to decide which claim is the most appropriate one. If you’re unsure which is the best option for you, read the where to get help section in the cover sheet of this form.

[ ] Yes

[ ] No

2. Remedy

2.1 What outcome are you seeking by lodging this application?

I want my job back or I want to get paid for the weeks that I’ve been out of work as I haven’t been able to find a new job.
3. Dismissal

3.1 What were the reasons for the dismissal, if any, given by your employer?

Using numbered paragraphs, specify the reason(s), if any, given by the employer for your dismissal. Attach any letter of dismissal and/or separation certificate given to you by your employer. Note that the Commission will send copies of any documents you provide to the Respondent. Attach extra pages if necessary.

1. My employer told me that I was being dismissed because I was unreliable and couldn’t turn up to work on time.

2. That I had stolen from the cash register and had committed serious misconduct.

3.2 Why was the dismissal unfair?

Using numbered paragraphs, describe the relevant facts and circumstances and specify why you say the dismissal was unfair. This should include:

- your response to any reasons for dismissal given by the employer
- whether you were counselled or warned by the employer of any deficiencies in your performance or conduct and the circumstances of each counselling session or warning
- why you believe the dismissal was unfair.

1. Whether there was a valid reason: My employer told me that the dismissal was because of being unreliable and because I was stealing from the cash register.

2. I have taken 8 sick days during the last three weeks as I have had serious bronchitis and have had doctor’s certificates for 7 of those 8 days. I called my boss (or my partner did) each morning before work commenced. On one occasion I had to leave a message as he didn’t answer his mobile. All of my sick days were paid sick leave as I am full time.

3. I don’t know anything about missing money, I didn’t steal anything.

4. I think he really fired me because his wife was recently made redundant and needed a job.

5. Whether I was told of the reason: My employer texted me the reasons to my mobile phone on the 29th of June saying that I was dismissed as of the 27th of June.

6. Whether I was given a chance to respond: I didn’t know I was dismissed until the sms arrived. By then I was already dismissed. I called the employer to ask what was going on and he wouldn’t take my calls.

7. Whether I was allowed a support person: I was terminated by phone message and had no support person.
8. Whether I had received a warning: I didn’t get a warning; I was completely surprised by this. I was recently given a glowing end of probation meeting. I thought everything was going well.

9. Size of the Employer and HR presence: My employer has written procedures for how they should give me warnings, meetings and then terminate me. They didn’t follow any of these processes.

10. Other factors: He hasn’t paid me any notice or any of my annual leave or my last week’s pay, I’ve lodged a complaint about this with the Fair Work Ombudsman.

Disclosure of information

The Fair Work Commission will provide a copy of this application and any attachments to the other parties in this matter. This includes:

- The Respondent
- Any legal representatives.

[ ] I consent to my contact details being provided to an external provider for the purposes of participating in research. The Fair Work Commission undertakes research with participants in unfair dismissal matters to ensure a high quality process. Some research may be undertaken by external providers on behalf of the Fair Work Commission.

Signature

⚠️ If you are completing this form electronically and you do not have an electronic signature you can attach, it is sufficient to type your name in the signature field. You must still complete all the fields below.

<table>
<thead>
<tr>
<th>Signature</th>
<th>J. Smith</th>
</tr>
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<tbody>
<tr>
<td>Name</td>
<td>Jane Smith</td>
</tr>
<tr>
<td>Capacity/Position</td>
<td></td>
</tr>
<tr>
<td>Date</td>
<td>20 July 2014</td>
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⚠️ Where this form is not being completed and signed by the Applicant, include the name of the person who is completing the form on their behalf in the Capacity/Position section.
Application fee

The current application fee is available on the Lodge an application page on the Commission’s website www.fwc.gov.au.

The Fair Work Act 2009 requires a fee to be paid on lodgment of this application with the Fair Work Commission. Where applicable, any refund of the application fee will be forwarded by cheque to the Applicant at the address provided on this application form.

Financial hardship

If paying the fee will cause you financial hardship, you can apply to have the fee waived. If you are applying to have the fee waived you must complete and lodge the Fee Waiver form at the same time as you lodge your application. Note that the Commission will not forward a copy of this form to the Respondent. The Fee Waiver form can be downloaded from the Fair Work Commission website www.fwc.gov.au.

Payment options

[   ] I have completed the Fee Waiver form and have attached it to my application.

[   ] I am paying by cash—Cash payments can only be made in person at one of the Fair Work Commission offices. Payment should be made at the same time as the application is lodged.

[   ] I have attached a cheque or money order to this application—Cheques and money orders should be made payable to the Collector of Public Monies, FWC. Please note that the cheque or money order must be for the exact amount of the application fee, if it is not it may cause the processing of your application to be delayed.

[   ] I am paying by credit card—If you are lodging this form in person or by post please provide your credit card details below. The Fair Work Commission does not accept Diners Club or American Express.

[   ] Visa  [   ] MasterCard

Card number: Card expiry date:

Cardholder’s name: Signature:

Note: If you are lodging your application by email, credit card details must not be provided on this form. Please ensure that you have provided a phone number so that a staff member can contact you and ask for your credit card payment over the phone. You should expect a call within 7 days of the Commission receiving your application.

Payer details

Who is making the payment?

[   ] The Applicant  [   ] The Applicant’s representative  [   ] Other—Please complete the details

<table>
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<th>Full name</th>
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PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS