Making an application

Employees who believe they have been dismissed unfairly may make an application to the Fair Work Commission.

Who can apply?

To apply for unfair dismissal, you must be:

- a national workplace relations system employee, and
- protected from unfair dismissal.

To be eligible to apply, you must:

- have completed a minimum employment period of at least six months (or one year if your employer is a small business who employs fewer than 15 employees, including you, at the time of your dismissal), and
- at the time of dismissal, be in at least one of the following categories:
  - covered by a modern award or pre-modern award instrument, such as a federal award, a state reference transitional award or a notional agreement preserving state award
  - covered by an enterprise agreement or an agreement-based transitional instrument, or
  - earn less than the high income threshold.

Note: The high income threshold is adjusted annually on 1 July and does not include superannuation guarantee contributions. Please refer to the High income threshold page in the Unfair dismissal benchbook (www.fwc.gov.au/unfair-dismissals-benchbook/coverage-unfair-dismissal/high-income-threshold) of our website for the current amount.

Applications within time

An application must be lodged within 21 days after the dismissal took effect. The Fair Work Commission may extend the time period only if a Fair Work Commission member decides after a conference or hearing that there were exceptional circumstances for not lodging the application on time.

For information on conferences and hearings, refer to Guide 7 – Preparing for a conference or hearing, available on the Dismissal, termination and redundancy page (www.fwc.gov.au/termination-of-employment/unfair-dismissal) of our website.

What application form is used?

Applications for unfair dismissal must be made on a Form F2 – Unfair Dismissal Application. This form can be obtained from any Fair Work Commission office public counter or downloaded from the website at www.fwc.gov.au.
Completing Form F2 – Unfair Dismissal Application

Complete ALL sections

The employee MUST complete all sections on the form and should attach copies of any relevant documents which support the application such as a letter of dismissal. Particular care should be given to make sure the correct employer is named on the application. It is usually possible to check this on a payslip, payment summary or employment separation certificate.

Signing

The application form MUST be signed.

If you are completing the application form online, you can sign the form by typing your name in the signature field.

Interpreter

An employee may have a family member or friend assist them at conciliation or request an interpreter through the Fair Work Commission. Refer to the question ‘Does the Applicant need an interpreter?’ on the first page of Form F2 – Unfair Dismissal Application.

Disability

If you require special arrangements to accommodate a disability (e.g. hearing impairment), you should advise the Fair Work Commission when you lodge your application.

Application fee

Employees are required to pay an application fee. If paying the fee will cause you financial hardship, you can apply to have the fee waived.

Note: The application fee is adjusted annually on 1 July. Please refer to the Lodge an application page (www.fwc.gov.au/disputes-at-work/how-the-commission-works/lodge-an-application) of our website for the current amount.

If you wish to apply for a waiver, a completed ‘Fee Waiver’ form should accompany the Form F2 application, and not be submitted separately. A copy of this form will not be forwarded to the employer. The form is available from any Fair Work Commission office public counter or downloaded from the website at www.fwc.gov.au.

The fee may be refunded if the matter is discontinued prior to any conference or hearing being held before a Fair Work Commission member.

How to lodge an application

Applications can be lodged by email, fax, post, in person at a Commission office or online using the Commission’s Online Lodgment Service (OLS). Fair Work Commission contact details appear on the website.

If you cannot lodge by any of the above means, then an application can be made over the phone on 1300 799 675. However, a telephone application cannot proceed until a complete and signed application is received, along with either payment or a Fee Waiver form.
Checklist

Use this checklist as a guide to help you check that you are eligible to apply, have filled in the application correctly and paid the fee, or applied for a waiver of application fee.

☐ Were you employed by a national workplace relations system employer?

Note: If you are an independent contractor or your employer was not a national workplace relations system employer (e.g. a state public sector employer or an employer other than a trading corporation in Western Australia) you may be excluded from bringing an unfair dismissal case with the Fair Work Commission.

☐ Have you completed the minimum employment period?

☐ Are you covered by a modern award or pre-modern award or an enterprise agreement?

☐ Are you earning less than the high income threshold per year (not including superannuation guarantee contributions)?

☐ Have you lodged your application within the time required after the dismissal took effect? If not, have you provided an explanation of the exceptional circumstances that prevented you from lodging on time?

☐ Have you included your fee for the application?, or

If paying the fee will cause you financial hardship, have you completed and attached the Fee Waiver form?

What happens next?

• The Fair Work Commission sends a copy of the Form F2 application to the employer.

• The Fair Work Commission sends the employee and the employer a written notification of the date and time of conciliation.

• The employer is required to complete and file a response (Form F3—Employer response to unfair dismissal application) and also send a copy to the employee.

• Conciliation will usually be held approximately three weeks after the application is made. See Guide 6—Preparing for conciliation, available on the Dismissal, termination and redundancy page (www.fwc.gov.au/termination-of-employment/unfair-dismissal) for further information.

Legal advice

The Commission cannot provide legal advice.

As part of the unfair dismissal application process, parties may choose to obtain their own independent legal advice.

There are community legal centres in each state and territory. The National Association of Community Legal Centres Inc (NACLC) legal help page (www.naclc.org.au/need_legal_help.php) can assist with finding the nearest community legal centre. Please note that the NACLC does not itself offer legal advice.

Further information


1. Overview of the unfair dismissal laws
2. Flowchart on the process
3. Making an application
4. Responding to an application
5. Objecting to an application
6. Preparing for conciliation
7. Preparing for a conference or hearing
8. Frequently asked questions
9. Glossary of common terms

The Unfair Dismissals Benchbook can also assist parties lodging or responding to unfair dismissal applications ([www.fwc.gov.au/resources/benchbooks/unfair-dismissals-benchbook](http://www.fwc.gov.au/resources/benchbooks/unfair-dismissals-benchbook)).

If you require further information or help, please refer to the Contact us page on the Commission's website ([www.fwc.gov.au/about-us/contact-us](http://www.fwc.gov.au/about-us/contact-us)).