



About the F89A response form

Response to an application for an unfair deactivation remedy

About unfair deactivation remedies

The [Fair Work Act 2009](#) provides for the Fair Work Commission (Commission), on application, to determine whether an **employee-like worker** was unfairly **deactivated** from a **digital labour platform**.

The Commission may order a remedy for the employee-like worker if the Commission finds the worker is protected from unfair deactivation and has been unfairly deactivated. To find a worker was unfairly deactivated the Commission must be satisfied the deactivation was not consistent with the [Digital Labour Platform Deactivation Code](#).

To be eligible to apply for an unfair deactivation remedy, a worker must:

- be an employee-like worker
- have been performing work
 - through or by means of a digital labour platform, or
 - under a **services contract** arranged or facilitated through or by means of a digital labour platform
- have been deactivated from the digital labour platform
- have earned less than the [contractor high income threshold](#), and
- have been performing work through or by means of the digital labour platform, or under a contract or a series of contracts arranged or facilitated through or by means of the digital labour platform, on a regular basis for a period of at least 6 months.

When assessing an application for an unfair deactivation remedy the Commission will consider:

- whether the employee-like worker was eligible to make an application
- whether the deactivation was unfair
- whether the deactivation was not consistent with the [Digital Labour Platform Deactivation Code](#), and
- any objection the digital labour platform operator may raise.

The **digital labour platform operator** can object to an application for unfair deactivation remedy on a number of jurisdictional grounds. A jurisdictional objection is not simply that the digital labour platform operator thinks the deactivation was not unfair. For example, the digital labour platform operator may object because the digital labour platform operator does not think the employee-like worker is eligible to make the application.

For more information about unfair deactivation and objecting to an application see [unfair deactivation for employee-like workers](#) on the Commission's website.

Who can use this form

Use this form if you are a digital labour platform operator or are responding for a digital labour platform operator and the Commission has served the digital labour platform operator with a form *F89–Application for an unfair deactivation remedy*.

Lodging and serving your completed form

1. **Lodge this response form and any supporting documents** with the Commission within **7 days** after the digital labour platform operator was served with the form F89 application. You can lodge this form:
 - by email to lodge@fwc.gov.au, or
 - by post or in person at the [Commission's office](#) in your state or territory.
2. **Serve a copy of your response and any supporting documents** on the Applicant within **7 days** after the digital labour platform operator was served with the form F89 application. You can serve this response and supporting documents on the Applicant in a number of ways, including by email or by express or registered post. Make sure you send the documents to the email or postal address specified in the form F89 application.

Where to get help

Commission staff & resources

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

- Commission processes
- how to make a response 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 complete the form.

Legal or other representation

Representation is where another person speaks or acts on a person's behalf, or assists a person in certain other ways in relation to a case. A representative could be a lawyer, paid agent, employer organisation, or a not-for-profit association or body that provides support, advice or advocacy in relation to the kind of application or case concerned.

A person does not have to be represented in a case at the Commission.

There are some rules about when a lawyer or paid agent can represent a person.

Unless the Commission decides otherwise in a particular case, a lawyer or paid agent can represent a person without permission to:

- prepare and lodge this response,
- prepare and lodge submissions about this case, and
- write to the Commission and other people involved in this case on the person's behalf.

Generally, a person must give notice to the Commission and seek permission from the Commission Member dealing with their case if they wish to have a **lawyer or paid agent** represent them in a **conference or hearing**. A person does not need to give notice or ask permission if the lawyer or paid agent is:

- their employee or officer, or
- an employee or officer of an employer organisation that is representing them.

A person can notify the Commission that they have a lawyer or paid agent using this form – provide the lawyer's or paid agent's details at 'Does the digital labour platform operator have a representative?'.

If a person needs to notify the Commission that they have a lawyer or paid agent after they have lodged this form, or if they need to ask for permission for a lawyer or paid agent to take part in a **conference or hearing**, use [form F53](#).

For more information about representation by lawyers and paid agents, see section 596 of the [Fair Work Act 2009](#), rules 11, 12, 13 and 14 of the [Fair Work Commission Rules 2024](#), information about [representatives and the rules they must follow](#), and the Commission's [practice note on representation by lawyers and paid agents](#).

Glossary of common terms

Applicant – this is the person that is making an application.

Deactivated – see section 536LG of the [Fair Work Act 2009](#).

Digital labour platform – see section 15L of the [Fair Work Act 2009](#).

Digital labour platform operator – see section 15M of the [Fair Work Act 2009](#).

Employee-like worker – see section 15P of the [Fair Work Act 2009](#).

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.

Lawyer – this is a person who is admitted to the legal profession by a Supreme Court of a state or territory.

Paid agent – in relation to a matter before the Commission, this is an agent (other than a bargaining representative) who charges or receives a fee to represent a person in the matter.

Party – this is an applicant, a respondent or another person involved in a matter or case that is brought to the Commission.

Person – includes an individual and a body corporate.

Respondent – this is the person responding to an application made by an applicant.

Service – serving a document means giving a copy of the document to a person, usually to the other party to the matter. You can serve a document in a number of ways, including by email, express or registered post, or in person. Part 5 of Chapter 1, and Schedule 1 of the [Fair Work Commission Rules 2024](#) deal with service.

Services contract – see section 15H of the [Fair Work Act 2009](#).

Privacy

The Commission collects the information (including personal information) provided to it in this form in order to deal with the application for an unfair deactivation remedy. The information will be included on the case file and the Commission may disclose the information to the other parties to this case 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 F89A – Response to an application for an unfair deactivation remedy

[Fair Work Act 2009](#) (the Fair Work Act) section 536LU

This is a response to an application to the Fair Work Commission (the Commission) for an unfair deactivation remedy under Part 3A-3 of the Fair Work Act.

The Applicant (the employee-like worker)



Provide details of the employee-like worker who made the application (the Applicant) and the Commission case number. You can find these details in the form *F89–Application for unfair deactivation remedy*. *Employee-like worker* is defined in section 15P of the Fair Work Act.

First name(s)	
Surname	
Commission case number	

The Respondent (the digital labour platform operator)



Provide details of the digital labour platform operator responding to the application. Sections 15L and 15M of the Fair Work Act define *digital labour platform* and *digital labour platform operator*.


Name of digital labour platform	
Legal name of digital labour platform operator	
Digital labour platform operator's ACN (if a company)	
Digital labour platform operator's ABN	
Contact person	
Phone number	
Mobile number	
Email address	

Postal address (if applicable)	
Industry of digital labour platform	

Has the Applicant given the correct legal name of the digital labour platform operator in their application for an unfair deactivation remedy?


- Yes
- No – Make sure the correct legal name is set out above

Does the digital labour platform operator have a representative?

 A representative is a person that is representing the digital platform operator. This might be a lawyer or paid agent. There is no requirement to have a representative.

- Yes – Provide representative’s details below
- No

Digital labour platform operator’s representative

 These are the details of the person representing the digital labour platform operator (if any).

Name of person			
Firm, employer organisation or company			
Email address			
Phone number			
Postal address			
Suburb			
State or territory		Postcode	

Is the representative a lawyer or paid agent?

The digital labour platform operator will need permission to be represented by a lawyer or paid agent in a conference or hearing. Our [lawyers and paid agents practice note](#) explains when you need to ask for permission to be represented.

 Yes – please select: Lawyer Paid agent No**1. The Applicant’s performance of work**

1.1 What date did the Applicant begin to perform work through or by means of the digital labour platform?

1.2 What date did the digital labour platform operator notify the Applicant of their deactivation from the digital labour platform?

1.3 What date did the deactivation take effect?

1.4 What were the Applicant’s earnings at the time of the deactivation?

1.5 In addition to the Applicant’s earnings, was the Applicant entitled to any non-monetary benefits at the time of the deactivation?

Yes

No

If you answered Yes – provide details (for example provision of a vehicle, mobile phone etc.)

2. Jurisdictional and other objections

2.1 Does the digital labour platform operator have any jurisdictional or other objections to the application?



Jurisdictional objections relate to why an Applicant is not eligible to make an application to the Commission. An objection is not simply that you think the Applicant’s deactivation was not unfair.

Yes

No – Go to question 3

2.2 If you answered yes to question 2.1 – On what basis does the digital labour platform operator object? If the digital labour platform operator objects on multiple grounds you can select more than one from the list below:

The application is out of time (ie lodged more than 21 days after the deactivation took effect)

The Applicant was not an employee-like worker who performed work through or by means of the digital labour platform, or performed work under a services contract arranged or facilitated through or by means of the digital labour platform (see section 536LD(b) of the Fair Work Act)

The Applicant did not work through or by means of the digital labour platform, or under a contract or series of contracts arranged or facilitated through or by means of the digital labour platform, on a regular basis for a period of at least 6 months (see section 536LD(c) of the Fair Work Act)

The Applicant was not deactivated (see section 536LG of the Fair Work Act)

- The sum of the Applicant’s annual rate of earnings, and other amounts worked out in accordance with the regulations, was equal to or more than the contractor high income threshold (see section 536LU(2) of the Fair Work Act and regulation 1.08AA of the Fair Work Regulations 2009)

- The digital labour platform operator complied with the Digital Labour Platform Deactivation Code

- Other: _____

Explain why the digital labour platform operator objects on these grounds.

3. Deactivation

3.1 What were the reasons for the Applicant's deactivation?



Using numbered paragraphs, specify the reasons for deactivating the Applicant from the digital labour platform. Attach any text or application messages or other documentation given to the Applicant. Note that the Commission may send copies of any documents you provide to the Applicant. Add extra pages if necessary.

3.2 What is the digital labour platform operator's response to the Applicant's contentions?



Using numbered paragraphs, set out the digital platform operator's response to the Applicant's contentions as to why the Applicant was unfairly deactivated as set out in the application for an unfair deactivation remedy.

Disclosure of information

The Commission may provide a copy of this response and any attachments to the other parties to this matter. This includes:

- the Applicant, and
- any representatives.

Authority to sign and signature



For 'Authority to sign':

- If you are the digital labour platform operator—insert 'Respondent'
- If you are an employee or officer of the digital labour platform operator—insert your position title
- If you are the digital labour platform operator's representative and have provided your details in this form—insert 'Representative'.

Authority to sign	
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Insert your signature, name and the date. If you are completing this form electronically and do not have an electronic signature, type your name in the signature field.

Signature	
Name	
Date	

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS