General Protections Involving Dismissal

ERLS Employment Rights Legal Service

You only have 21 calendar days from the date you were dismissed to make a dismissal-related claim.

It is unlawful for an employer to dismiss an employee **because the employee:**

- wants to, has, or will exercise a workplace right; or
- the employee possesses a protected attribute

What is a workplace right?

As an employee, there are certain rights you have at work, **including to:**

- be paid correctly;
- take leave;
- join a union or participate in union activities; and
- make a complaint or inquiry about your employment.

What is a protected attribute?

Protected attributes are attributes that are protected under anti-discrimination legislation and include sex, gender, sexual orientation, family and carer's responsibilities, disability, age or race.

The reason for the dismissal.

To successfully bring a General Protections involving dismissal claim, the person who decided to dismiss you (the 'decision maker') must have made the decision because of a reason which is prohibited under the Fair Work Act 2009 (Cth).

Example One: Sick Day

Francis tells her boss that she is feeling sick and needs to take the rest of the day off. In response, Francis' boss tells her she clearly doesn't care about her job and dismisses her.

Does Francis have a viable claim? Yes! Francis was dismissed because she

- exercised a workplace right to take personal leave; and
- has a temporary illness, which is a disability and therefore a protected attribute.

Example Two: Workplace Theft

Willem is caught stealing money from the till at his work and is subsequently dismissed. Willem's boss knows he is in a same sex relationship.

Does Willem have a viable claim? No. Despite sexual orientation being a protected attribute, the real reason for Willem's dismissal was his conduct, not his sexual orientation.

How do I make a General Protections Involving dismissal complaint?

You will need to complete and lodge a Form F8 with the Fair Work Commission ('FWC'). You can find more information and a copy of the form here, but we strongly encourage you to get legal advice first since these claims can be complex.

How do I make a General Protections Involving dismissal complaint?

The possible 'remedies', or outcomes, include:

- reinstatement (getting your job back);
- compensation for economic loss, which is money you have had to spend or money you haven't earned (such as lost income);
- compensation for pain and suffering, known as general damages; and
- in some cases, a court can order the employer to pay civil penalties, which is a financial penalty.

What is the complaint process?

1. Lodge Form F8 with FWC within 21 days of your dismissal
2. Receive your employer's response to your claim
3. Attend a FWC 'conciliation'– this is anopportunity to make an agreement with your employer to 'settle' the claim
4. If the matter doesn't settle, refer it to a federal court within 14 days of the FWC certificate

*This factsheet was last updated on **14 May 2026.** It was produced by the Employment Rights Legal Service.*
This factsheet provides general information about the law. It is not a substitute for legal advice.