Unfair Dismissal

Employment Rights Legal Service

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

What is an unfair dismissal claim?

An unfair dismissal claim is a legal claim for employees who believe they have been fired from their job ('dismissed') in a harsh, unjust or unreasonable manner.

Who can bring an unfair dismissal claim?

You can bring an unfair dismissal claim if:

- you have been employed for 12 months, or 6 months if your employer has more than 15 employees; and
- your employment is covered by a Modern Award, an Enterprise Agreement, or you earn under the 'high income threshold', which as of July 2025 is $183,100 (the amount changes each year on 1 July); and
- your dismissal took place within the last 21 calendar days (NOT business days).

What counts as a 'dismissal'?

An employee has been 'dismissed' if:

- the employer caused the employment to end (e.g. an employer tells an employee they're fired); or
- the employee was forced to resign (e.g. an employer doesn't let an employee leave a meeting until they agree to sign a resignation letter).

What makes a dismissal 'unfair'?

A dismissal is unfair if it is harsh, unjust or unreasonable. A dismissal may be harsh, unjust, or unreasonable if any of the following apply:

- no valid reason to dismiss
- no prior warning about poor performance
- no notice of the reason for dismissal
- improper dismissal process considering employer's HR and/or size
- no opportunity to respond to the reason for dismissal
- any other relevant matter
- not allowed to bring a support person to dismissal discussions

What 'remedy' is there for an unfair dismissal claim?

The Fair Work Commission can order an employer to:

- pay an employee compensation for 'economic loss', which is money they lost or didn't earn because of the dismissal, up to a maximum of 26 weeks' salary; and/or
- give the employee their job back (reinstatement).

What is the process of bringing an unfair dismissal claim?

1. **Calculate the 21 days**
It is very difficult to get an extension of time to bring an unfair dismissal claim. As soon as you've been dismissed, you should work out when your 21 days end, and make sure you lodge your claim before then.

2. **Complete the application form**
You will need to complete the Form F2. The form must include:

   - your details;
   - your employer's details;
   - the date of the dismissal;
   - the reason for the dismissal;
   - why you think the dismissal was harsh, unjust or unreasonable; and
   - the outcome you are seeking (i.e. compensation and/or your job back).

3. **Lodge your application**
You can lodge your application online via the Fair Work Commission website, or by emailing lodge@fwc.gov.au.

4. **Pay the filing fee**
Current fee: $89.70 (subject to change). If you can't afford it, apply for a waiver using the Fee Waiver Form.

5. **Attend Conciliation**
A conciliation conference is an 'off the record' conversation between you, your employer, and a third-party conciliator, aimed at resolving the dispute. Most matters will settle at conciliation. Each party will have opportunity express their views and exchange offers. For example, you might agree for your employer to pay you $3,000 in exchange for you withdrawing your claim.

6. **Attend a Hearing**
If you and your employer cannot resolve the dispute at conciliation, the case will go to a formal hearing before a Commissioner who will make a final decision about whether the dismissal was unfair, and if so, the 'remedy'.

*This factsheet was last updated on **14 May 2026.** It was produced by the Employment Rights Legal Service.*
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