

Write your name here
Applicant

Write your employer's name here
Respondent

** Repeat as necessary for additional parties*

Form 2

Fair Work Division
Rule 30.04(b)

**Claim under the Fair Work Act 2009 alleging
dismissal in contravention of a general
protection**

Part A – Details of employee	
1. Name	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Tick the correct box Other <input type="checkbox"/> (give details): Write your title here Family name: Write your surname here Given names: Write your first and middle names here
2. Address	Write your address here Postcode: Write your postcode
3. Phone	Business hours: Write your business telephone number here After hours: Write your afterhours telephone number here Mobile: Write your telephone number here
4. Date of birth	Write your date of birth here
5. First language	<input type="checkbox"/> English Check this box if English is your first language <input type="checkbox"/> Other (specify): Write your first language here

Part B – Details of employment	
6. Employer's name	Write your employer's name here. If your employer is a company, write the company name here.
7. Employer's trading address or registered office	Write your employer's address here. If your employer is a company, write the address of company's registered office. Postcode: Phone: Write your employer's telephone number here Fax: Write your employer's fax number here
8. Work performed for employer (occupation)	Write your job title or position here
9. Place of work	Write the address where you worked Postcode: Write the postcode
10. Period of employment	Date started work: Write the date you began work Last date worked: Write the date of your last day of work
11. Was the employee given a written notice of dismissal?	Check the box to show whether you were given written notice of your dismissal or termination. If yes, attach a copy to this form. <input type="checkbox"/> No <input type="checkbox"/> Yes - Copy attached

Part C – If the applicant is an individual – details of representation	
12. Is a union acting on your behalf?	<input type="checkbox"/> No - go to 19 Check this box if you are self-represented. Go straight to Part E. <input type="checkbox"/> Yes - go to 13 Check this box if you are represented by a union
13. Name of union	Write the name of the union that is representing you here
14. Address	Write the address of the union that is representing you here Postcode: Write the postcode
15. Contact person	Name: Write the name of your contact person at the union here Phone: Write the union's telephone number here Fax: Write the union's fax number here

Part D – If the applicant is an industrial association – details of representation **Leave this section blank**

16. Is a member, officer or employee of the applicant representing it?	<input type="checkbox"/> No - go to 19 <input type="checkbox"/> Yes - go to 17
17. Name of the member, officer or employee	
18. Address Postcode:

Part E – Details of lawyer

19. Is a lawyer representing you?	<input type="checkbox"/> No - go to 23 Check this box if you are self-represented. Go straight to Part F. <input type="checkbox"/> Yes - go to 20 Check this box if you are represented by a lawyer
20. Lawyer's name	Write your lawyer's name here
21. Name of lawyer's firm	Write the name of your lawyer's firm here
22. Address	Write the address of the union that is representing you here Postcode: Write the postcode DX: Write your DX here Phone: Write your lawyer's telephone number here Fax: Write your lawyer's fax number here

Part F – Notices from the Court

Check the box to show where you want correspondence from the court to be sent

23. Where do you want notices from the Court sent?	<input type="checkbox"/> address in 2 <input type="checkbox"/> union in 13 -15 <input type="checkbox"/> address in 17 -18
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	<input type="checkbox"/> lawyer in 20-22 <input type="checkbox"/> other (give details): Write your address here
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Part G – Contravention(s) alleged

24. What are the grounds for the claim that the employee was dismissed in contravention of a general protection?

(Set out in numbered paragraphs the facts relied on and the provisions of the Fair Work Act relevant to the claim)

If relying on s.340 specify the 'workplace right' claimed.

If relying on s.351 specify the attribute in s.351(1)

Attach an extra sheet if required

In this section you need to explain what 'general protection' you say your employer breached when they dismissed you. For example:

- s340 & s.341 (protects your right to get paid your wages, take leave, make complaints or inquiries and get other entitlements in your award, or enterprise agreement)
- s346 (protects you in relation to union activities)
- s351 (protects you from being discriminated against because of race, colour, sex, sexual preference, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction or social origin)
- s352 (protects you if you are temporarily absent from work because of illness or injury)
- s357 (protects you from being hired as a contractor when you are really an employee)
- s358 (protects you from being dismissed so that your employer can re-hire you as a contractor doing the same work).



If you are not sure what to write here, you should get legal advice. You need to set out the important facts and what part of the Fair Work Act you rely on to make your claim.

For example, if you say you were sacked because you took time off work because of an illness or injury, you might write something like:

“1. From 1 April 2013 to 7 April 2013 I was absent from work because I sprained my right ankle.

2. I gave my employer a doctor's certificate for the period I was away. The certificate said that I was unfit to work for that period.

3. On 8 April 2013 I returned to work and I was told that I was being sacked for taking too many days off. I was given two weeks notice.

4. I rely on section 352 of the *Fair Work Act 2009*, which says that an employer must not dismiss an employee for a temporary absence or illness.

5. I also rely on section 340 of the *Fair Work Act 2009*, which says that an employer must not dismiss an employee for using workplace rights. The National Employment Standards and my award say I have a right to take sick leave.”



Make sure what you write relates to your case. Do not copy the example above.

Part H – Remedy sought

The 'remedy' is what you hope to get out of making the application. It can be compensation for lost wages or your job back. In some cases, it can be to penalise your employer, though this depends on what they did.

26. What are you asking the Court for?

- Injunction **This is a court order to stop someone from doing something that affects you.**
- Please specify on an attached sheet the terms of the injunction or injunctions sought.*
- Compensation **The Court can order that you be paid lost wages, and also be paid compensation for any other damage you suffered. If you are asking for compensation you need to attach a separate page with details of how much compensation you want.**
- Please give details on an attached sheet of how much compensation the employee is claiming and how the amount has been calculated (eg loss of income).*
- Reinstatement **The Court can order that you be given your job back.**
- Pecuniary penalty **The Court can fine your employer for breaking the law.**
- Other **If you want the Court to make some other order, put the details on a separate page.**
- Please give details on an attached sheet*

27. To whom should any compensation, pecuniary penalty or other amount ordered be paid?

Tick the appropriate box or boxes and write who you think any compensation, penalty or other money amount should be paid to. You can put your own name.

- Compensation:
- Pecuniary penalty:
- Other:

Part I – Required documents **To apply, you must have a certificate from the Fair Work Commission that says you tried conciliation.**

28. A certificate issued by the Fair Work Commission under s 369 of the Fair Work Act must accompany your application and claim.

- Copy of certificate attached **Tick this box and attach your certificate to this form.**
- Copy of certificate not attached

Signature of applicant, lawyer or authorised representative

Sign here

Signed by (print name) **Write your name here**

- the applicant **Check this box**
- lawyer for the applicant
- authorised representative of the applicant

Date: **Write the date here**

Form approved by the Chief Judge pursuant to subrule 2.04(1) for the purpose of subrule 30.04(b)

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