

Unfair dismissal

Young Workers Legal Service

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If you are dismissed from your employment in an unfair way, you may be able to pursue an Unfair Dismissal claim. To make such a claim, you need to show that your dismissal was harsh, unjust or unreasonable. If you suspect that you have been unfairly dismissed, ask yourself:

- Did I receive any prior warnings?
- Was the reason given valid or correct?
- Did I do anything wrong?
- Did I get a chance to respond to all allegations made against me?
- Did I get a chance to have my parents/guardians or union representative with me when discussing the reasons that led to my dismissal?

If your answer was 'no', to any of these questions, there is a possibility that you were unfairly dismissed.

Sometimes employees are made redundant instead of dismissed. Redundancy means that your job is no longer required. However if you believe your job still does exist you may be able to pursue a claim for Unfair Dismissal. If you are in that situation and you suspect that the redundancy is not genuine ask yourself:

- Is the job still there, just with a different name?
- Is the job being re-advertised?
- Is someone else performing most of my tasks and duties?

Who is protected?

You need to be a regular casual or a permanent employee to make an Unfair Dismissal claim. You also need to fulfil one of the following requirements:

- If the business you work for has more than 15 employees then you may be eligible to lodge a claim for Unfair Dismissal if you have been employed for 6 months or more, or
- If the business you work for has less than 15 employees then you may be eligible to lodge a claim if you have been employed for 12 months or more

Please note – when determining the number of employees in the business, you may include any casual employees engaged on a regular and systematic basis. Casual employees not engaged on this basis will not count in this instance.

How are you protected?

If you work for a business you must lodge a complaint with Fair Work Australia within 14 days from the day you were dismissed. If you work for a local council or the state Government you must lodge a complaint with the Industrial Relations Commission of South Australia within 21 days.

Who can you contact for help?

If you suspect that you have been unfairly dismissed, you should seek advice immediately. You can contact Fair Work Australia on 1300 799 675 or call us on (08) 8279 2233.

This material has been funded by the Australian Government through a Fair Work Ombudsman initiative to produce educative materials on the Fair Work Act 2009.

The Fair Work Ombudsman (FWO) is committed to providing useful, reliable information to help you understand your rights and obligations under workplace laws.

The information contained in this publication within the FWO's jurisdiction as set out in the Fair Work Act 2009 is:

- *general in nature and may not deal with all aspects of the law that are relevant to your specific situation; and*
- *not legal advice.*

Therefore, you may wish to seek independent professional advice to ensure all the factors relevant to your circumstances have been properly considered.

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