

Erich Johansson
Applicant

Steelrod Pty Ltd
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 checked="" type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Other <input type="checkbox"/> (give details): Family name: Johansson Given names: Erich
2. Address	Unit 12/5 Example Street Redfern NSW Postcode: 2016
3. Phone	Business hours: (.....) After hours: (02) 9100 10XX Mobile: 0492 111 XXX
4. Date of birth	11/11/1975
5. First language	<input type="checkbox"/> English <input checked="" type="checkbox"/> Other (specify): Swedish

Part B – Details of employment

6. Employer's name	Steelrod Pty Ltd
7. Employer's trading address or registered office	12 Name Street Waterloo Postcode: 2017 Phone: (02) 3210 32XX Fax: (02) 3210 32XX
8. Work performed for employer (occupation)	Store person
9. Place of work	12 Name Street Waterloo Postcode: 2017
10. Period of employment	Date started work: 10/09/2012 Last date worked: 18/01/2013
11. Was the employee given a written notice of dismissal?	<input checked="" 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 checked="" type="checkbox"/> No - go to 19 <input type="checkbox"/> Yes - go to 13
13. Name of union	
14. Address Postcode:
15. Contact person	Name: Phone: (.....)..... Fax: (.....).....

Part D – If the applicant is an industrial association – details of representation

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 checked="" type="checkbox"/> No - go to 23 <input type="checkbox"/> Yes - go to 20
20. Lawyer's name	
21. Name of lawyer's firm	
22. Address Postcode: DX: Phone: (.....)..... Fax: (.....).....

Part F – Notices from the Court

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

<p>24. What are the grounds for the claim that the employee was dismissed in contravention of a general protection?</p> <p>(Set out in numbered paragraphs the facts relied on and the provisions of the Fair Work Act relevant to the claim)</p> <p>If relying on s.340 specify the 'workplace right' claimed.</p> <p>If relying on s.351 specify the attribute in s.351(1)</p> <p>Attach an extra sheet if required</p>	<ol style="list-style-type: none"> 1. On 10 September 2012 I commenced employment with the respondent. 2. The enterprise agreement that applies to my workplace (Steelrod Enterprise Agreement 2010) says that employees can be required to work on Saturdays. 3. The Steelrod Enterprise Agreement also says that employees required to work on Saturdays must be paid one and a half times their normal hourly rate. 4. On 11 January 2013, Rod Steel, a director of Steelrod Pty Ltd, asked me to work on Saturday 12 January 2013. I agreed and attended work for 8 hours on 12 January 2013. 5. On 17 January 2013, I was paid for the preceding 2 weeks. My payslip indicated that I had been paid at my normal hourly rate for Saturday 12 January 2013. I told Rod Steel that I had been underpaid and asked that I be paid what I was entitled to. 6. On 18 January 2013, I was told by Rod Steel that I was being sacked for "complaining and being disloyal". I was told to clear out my things and that 18 January was my last day of work. 7. I was not given two weeks notice. 8. I rely on sections 340 and 341 of the Fair Work Act 2009, which says that an employer must not dismiss an employee because an employee: <ul style="list-style-type: none"> • has a workplace right • proposes to exercise a workplace right 9. The respondent dismissed me because I had a right to payment at the rate of one and a half times the normal hourly rate when working on Saturdays, and because I asked for that right.

Part H – Remedy sought

26. What are you asking the Court for?	<p><input type="checkbox"/> Injunction <i>Please specify on an attached sheet the terms of the injunction or injunctions sought.</i></p> <p><input checked="" type="checkbox"/> Compensation <i>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).</i></p> <p><input type="checkbox"/> Reinstatement</p> <p><input checked="" type="checkbox"/> Pecuniary penalty</p> <p><input type="checkbox"/> Other <i>Please give details on an attached sheet</i></p>
27. To whom should any compensation, pecuniary penalty or other amount ordered be paid?	<p><input checked="" type="checkbox"/> Compensation: The applicant</p> <p><input checked="" type="checkbox"/> Pecuniary penalty: The applicant</p> <p><input type="checkbox"/> Other:</p>

Part I – Required documents

28. A certificate issued by the Fair Work Commission under s 369 of the Fair Work Act must accompany your application and claim.	<p><input checked="" type="checkbox"/> Copy of certificate attached</p> <p><input type="checkbox"/> Copy of certificate not attached</p>
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Signature of applicant, lawyer or authorised representative

Erich Johansson

Signed by (print name) **Erich Johansson**

- the applicant
- lawyer for the applicant
- authorised representative of the applicant

Date: **02/05/2013**

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

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Part H – Remedy sought

Dismissal

- 1. A declaration that the respondent engaged in conduct contrary to sections 340(1) of the *Fair Work Act 2009 (Cth)*.**
- 2. An order requiring the respondent to pay the applicant damages by way of compensation pursuant to section 545(2) of the *Fair Work Act 2009 (Cth)*.**

Particulars of compensation

- a) \$5320, which is an amount equal to the gross amount the applicant would have been paid had he remained with the respondent up to and including 14 April 2013 (when the applicant commenced work with another employer).**
- b) \$5200, which is an amount equal to the difference between what the applicant was paid by the respondent and what the applicant is currently paid, the difference being \$100 per week, over a period of one year, being the amount of time the applicant could reasonably have been expected to remain with the respondent had his employment not been terminated.**

Underpayment on 12 January 2013

- 3. An order requiring the respondent to pay the applicant damages in the amount of \$70 for**
 - a) breach of contract, or in the alternative**
 - b) contravention of the modern award.**

Further orders

- 4. An order pursuant to section 547(2) of the *Fair Work Act 2009 (Cth)* for the payment of interest up to judgment.**
- 5. An order that the respondent pay a pecuniary penalty pursuant to section 546 of the *Fair Work Act 2009 (Cth)*.**