



About the F8 application form

General protections application involving dismissal

About general protections disputes involving dismissal

The general protections provisions of the [Fair Work Act 2009](#) aim to protect workplace rights and freedom of association and to provide protection from workplace discrimination.

An employee may allege that their employer contravened one or more of the general protections provisions in dismissing the employee from their employment. In some circumstances, a demotion, a forced resignation or constructive dismissal may be considered a dismissal. The meaning of **dismissed** can be found at section 386 of the [Fair Work Act 2009](#).

If you make such a claim, the Fair Work Commission (Commission) will try to assist the parties to settle the dispute by conducting a conference.

If the dispute remains unresolved after the conference, the Commission will issue a certificate. You may then choose to make a general protections court application within 14 calendar days of the date the certificate is issued, or such further time as the court allows. Alternatively, if both parties to the dispute consent, you can apply for the Commission to conduct a consent arbitration which will determine the matter, subject to any appeal. An application for consent arbitration needs to be lodged with the Commission within 14 calendar days of the date the certificate is issued.

If the parties have notified the Commission that they consent to arbitration, you cannot also make a general protections court application. If you are pursuing a general protections court application, the parties cannot also seek to have the Commission arbitrate the matter.

For more information see the Commission's [General Protections Guides](#) and [General Protections Benchbook](#).

Who can use this form

Use this form if you:

- were an employee **and**
- have been dismissed **and**
- believe that there has been a breach of the general protections provisions that apply to you.

Note: If you believe there has been a breach of the general protections provisions that apply to you but you have not been dismissed, you should lodge your application using Form F8C (or you may make an application directly to a court).

You should also use this form if you are an industrial association making an application on behalf of an employee who has been dismissed and believe that there has been a breach of the general protections provisions that apply to them.

Lodging your completed form

1. **Lodge your application**, along with any supporting documents, with the Commission within **21 calendar days** after your dismissal took effect. You can lodge your application online using the Commission's [Online Lodgment Service \(OLS\)](#) or by post, fax or email, or in person at the [Commission's office](#) in your state or territory.

Note: The Commission will provide a copy of your application and any other documents you lodge with the application (except the Fee Waiver form, where relevant) to the employer.

2. **Pay your application fee** at the same time as you lodge your application. The current application fee is available on the [Lodge an application](#) page on the Commission's website.

If payment of the fee will cause you financial hardship, you can apply to have the fee waived. You must apply to have the fee waived at the same time as you lodge your application. Download the [Fee waiver form](#) from the Commission's website.

Where to get help

Commission staff & resources

Commission staff cannot provide legal advice. However, staff can give you information on:

- Commission processes
- how to make an application to the Commission
- how to fill out forms
- where to find useful documents such as legislation and decisions
- other organisations that may be able to assist you.

The Commission's website www.fwc.gov.au also contains a range of information that may assist.

Throughout this form



This icon appears throughout the form. It indicates information to help you complete the form.

Legal or other representation

Representation is where another person (such as a lawyer or paid agent, union official, family member or friend) speaks or acts on your behalf, or assists you in certain other ways in relation to your matter. There is no requirement for you to be represented at the Commission.

You will need permission from the Commission Member dealing with your matter if you wish to be represented by a lawyer or paid agent at a conference or a hearing, unless the lawyer or paid agent is

an employee or officer of a union or a peak union body that is representing you. If you want to seek permission, you must lodge a Form F53 – Notice that a person: (a) has a lawyer or paid agent; or (b) will seek permission for lawyer or paid agent to participate in a conference or hearing.

You do not need permission to have a lawyer or paid agent prepare and lodge this application with the Commission.

For more information about representation by lawyers and paid agents, see section 596 of the *Fair Work Act 2009*, rules 11, 12 and 12A of the Fair Work Commission Rules 2013 and the Commission's [practice note on representation by lawyers and paid agents](#).

Glossary of common terms

Applicant – This is the person or organisation that is making an application.

Jurisdictional objection – This is a type of objection a Respondent can raise to an application. A Respondent can make this kind of objection if they think that the Commission, for a technical or legal reason, cannot hear the matter.

Lawyer – This is a person who is admitted to the legal profession by a Supreme Court of a State or Territory.

Paid agent – in relation to a matter before the Commission, is an agent (other than a bargaining representative) who charges or receives a fee to represent a person in the matter.

Party – A party is an Applicant, Respondent or another person or organisation involved in a matter or case that is brought to the Commission.

Respondent – The person or organisation responding to an application made by an Applicant.

Service – Serving a document means giving a copy of the document to a person or organisation, usually to the other party to the matter. You can serve a document in a number of ways, including by email, fax, express or registered post, or in person. Parts 7 and 8 of the Fair Work Commission Rules 2013 deal with service.

Privacy

The Commission collects the information (including personal information) provided to it in this form in order to deal with the general protections application involving dismissal. The information will be included on the case file, and the Commission may disclose the information to the other parties to this matter and to other persons. For more details of the Commission's collection, use and disclosure of this information, please see the [Privacy notice](#) for this form, or ask for a hard copy to be provided to you.



Remove this cover sheet and keep it for future reference – it contains useful information.

Form F8 – General protections application involving dismissal

Fair Work Act 2009, s.365

This is an application for the Fair Work Commission (Commission) to deal with a general protections dispute involving dismissal under Part 3-1 of the [Fair Work Act 2009](#).

The Applicant (you)



These are the details of the person who has been dismissed. Make sure you provide a telephone number for the conciliation conference.

Title	<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input checked="" type="checkbox"/> Other please specify:		
First name(s)	Matelita		
Surname	Taufa		
Postal address	8 Sample Street		
Suburb	North Ryde		
State or territory	NSW	Postcode	2113
Phone number	02 8800 8800	Fax number	
Mobile number			
Email address	<u>matelita@mail.com</u>		

Note: If you provide a mobile number the Commission may send reminders to you via SMS.

If the Applicant is an industrial association please also provide the following information



If the Applicant is an industrial association, note that “you” in this form refers to the employee whose industrial interests the Applicant is entitled to represent.

Name of association	
Contact person	
Phone number	
Email address	

How would you prefer us to communicate with you?

Email (you will need to make sure you check your email account regularly)

Post

Do you need an interpreter?



If you have trouble accessing this information, please contact us. We can arrange to provide it in another format. You can find information about [help for non-English speakers](#) on our website.

Yes – Specify language

No

Do you need any special assistance at the hearing or conference (eg a hearing loop)?

Yes – Please specify the assistance required

No

Do you have a representative?



A representative is a person or organisation who is representing you. This might be a lawyer or paid agent, a union or a family member or friend. There is no requirement to have a representative.

Yes – Provide representative's details below

No

Your representative



These are the details of the person or organisation who is representing you (if any).

Name of person			
Firm, union or company			
Postal address			
Suburb			
State or territory		Postcode	
Phone number		Fax number	
Email address			

Is your representative a lawyer or paid agent?

Yes

No

The Respondent (the employer)



These are the details of the employer that dismissed you.

You should provide the legal name of the employer. The legal name is not the trading name or business name of the employer. The employer will usually be a person or a company (with a name ending in Pty Ltd or Ltd), or in some instances a partnership, an incorporated association, or a public sector employer. Your pay slips, PAYG payment summary, appointment letter or employment contract should give the legal name of the employer.

Note that the Commission will send a copy of your application to the contact person you name below.

Legal name of employer	Frozen Food Distributions Pty Ltd		
Employer's ACN (if a company)	120 000 000		
ABN			
Contact person	Adam Matthews, Human Resources Manager		
Postal address	100 Example Road		
Suburb	Sydney		
State or territory	NSW	Postcode	2000
Phone number	02 9000 0000	Fax number	
Email address	a.matthews@frozenfood.com.au		

1. General protections dismissal

1.1 What date did you begin working for the employer?

10 December 2019

1.2 What date were you notified of your dismissal?

17 January 2023

1.3 What date did your dismissal take effect?

1.4 Are you making this application within 21 calendar days of your dismissal taking effect?

Yes

No



For information about the timeframe for lodgment of general protections applications involving dismissal, see section 366(1) of the [Fair Work Act 2009](#).

If you answered **No** – Explain the reason for the delay, including any steps you have taken to dispute the dismissal or any other reason you think the Commission should take into account in considering whether to accept your application out of time.

1.5 To the best of your knowledge, how many employees were employed in your workplace when you were dismissed?

1-14

15-49

50-99

100 or more

I don't know

1.6 Have you made another claim to the Commission or to any other organisation regarding your dismissal (eg an unfair dismissal application)?



The Commission cannot consider your general protections application involving dismissal if you have made another claim in relation to your dismissal, such as an unfair dismissal application or a complaint to the Australian Human Rights Commission. If you answer yes to this question, you will need to decide which claim is the most appropriate one. If you're unsure which is the best option for you, read the **where to get help** section in the cover sheet of this form.

Yes

No

2. Remedy

2.1 What outcome are you seeking by lodging this application?

I want my job back and compensation.

3. Alleged contravention

3.1 Describe the actions of the employer, including any reasons given for your dismissal, that have led you to make this application.

Using numbered paragraphs, describe the relevant facts and circumstances. Specify the reason(s), if any, given by the employer for your dismissal. Attach any letter of dismissal and/or separation certificate given to you by the employer. Note that the Commission will send copies of any documents you provide to the employer. Attach extra pages if necessary.

1. On 9 January 2023 I called my supervisor (Tom Biggs) and told him that I was sick and couldn't come to work. That afternoon I went to see the doctor and was given antibiotics and a medical certificate for the next week. I have attached a copy of the certificate and it is marked "A".
2. On 10 January 2023 I called Mr Biggs and told him that I was still sick and I would not be returning to work until 17 January 2023. Mr Biggs told me if I did not come to work the next day, I shouldn't bother coming in at all.
3. I returned to work on 17 January 2023. I was called into a meeting with Mr Biggs and Adam Matthews, the Human Resource Manager. I was told that I had not been performing and that my employment was terminated. I gave them my medical certificate but Mr Biggs said that they did not have any work for me.
4. Before this date I had never been told that there were problems with my performance. I had not received any warnings or chances to try and improve.
5. I have worked for Frozen Food since December 2019. Before the 17 January meeting I had never had any problems at work.

3.2 Which section(s) of the Fair Work Act 2009 did the employer contravene when they took, threatened or organised the above actions against you?



A general protections application should only be made if your employer took adverse action against you **because** you have the protections described in one or more sections of the [Fair Work Act 2009](#) listed below. See the [General Protections Benchbook](#) for information about each of the protections below.

Division 3 – Workplace rights

- s.340 Protection
- s.343 Coercion
- s.344 Undue influence or pressure

Division 4 – Industrial activities

- s.346 Protection
- s.348 Coercion

Division 5 – Other protections

- s.351 Discrimination

Please specify the attribute as set out in section s.351(1):

s.352 Temporary absence – illness or injury

Division 6 – Sham arrangements

s.358 Dismissing to engage as an independent contractor

3.3 Explain how the actions you have described in question 3.1 have contravened the section(s) of the Fair Work Act 2009 you identified in question 3.2.

- 1. Mr Biggs and Adam Matthews decided to dismiss me because I took sick leave for about one week.**
- 2. On 17 January 2023, when I returned to work, I gave them the medical certificate from my doctor but they did not accept it.**
- 3. On 17 January 2023, Mr Biggs and Adam Matthews talked to me about problems with my performance. However, I had never received a warning about my performance before.**
- 4. The above actions have contravened s352 of the Fair Work Act 2009.**

Attach extra pages if necessary.

Disclosure of information

The Commission will provide a copy of this application and any attachments to the other parties in this matter. This includes:

- the employer
- any legal representatives.

Consent to contact by researchers



The Commission undertakes research with participants in general protections dismissal matters to ensure a high quality process. Some research may be undertaken by external providers on behalf of the Commission.

Do you consent to the contact details provided on page 1 of this form being provided to an external provider of research services for the sole purpose of inviting you to participate in research?

Yes

No

Signature



If you are completing this form electronically and you do not have an electronic signature you can attach, it is sufficient to type your name in the signature field. You must still complete all the fields below.

Signature	<i>Matelita Taufa</i>
Name	Matelita Taufa
Capacity/ Position	Applicant
Date	24 January 2023

If you are not the Applicant and are completing and signing this form on the Applicant's behalf, include an explanation of your authority to do so in the Capacity/Position section above.

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS

Application fee

Your name:

Matelita Taufa

The current application fee is available on the [Lodge an application](#) page on the Commission's website www.fwc.gov.au.

The *Fair Work Act 2009* requires a fee to be paid on lodgment of this application with the Commission. Where applicable, any refund of the application fee will be forwarded by cheque to you at the address provided on this application form.

Financial hardship

If paying the fee will cause you financial hardship, you can apply to have the fee waived. If you are applying to have the fee waived you must complete and lodge the Fee Waiver form at the same time as you lodge your application. Note that the Commission will not forward a copy of the Fee Waiver form to the employer. The [Fee waiver form](#) can be downloaded from the Commission's website www.fwc.gov.au.

Payment options

I have completed the Fee Waiver form and have attached it to my application.

I am paying by cash – Cash payments can only be made in person at one of the Fair Work Commission offices. Payment should be made at the same time as the application is lodged.

I have attached a cheque or money order to this application – Cheques and money orders should be made payable to the Collector of Public Monies, FWC. Please note that the cheque or money order must be for the exact amount of the application fee, if it is not it may cause the processing of your application to be delayed.

I am paying by credit card – Please see below:

If paying by credit card, please provide the payer's details below and a Commission officer will contact the payer within 3 business days from the date of lodgment.

Payer details

Who is making the payment?

You

Your representative

Other – Please complete the details

Full name of payer	Matelita Taufa		
Postal address	8 Sample Street, North Ryde		
Phone number	02 8800 8800	Email address	matelita@mail.com

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS