

Industrial Relations Act 1996 (NSW)

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

**EMPLOYER'S REPLY TO APPLICATION
FOR RELIEF IN RELATION TO UNFAIR DISMISSAL**

DETAILS ON THE APPLICATION FORM (To be completed by the Registry)	
• File number on the application	IRC of
• Employer's full name as on the application
• Employee's full name as on the application	Family name Given names Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Miss <input type="checkbox"/> Other <input type="checkbox"/> <i>(Please specify)</i>

SPECIAL NOTE FOR RESPONDENTS

- Not all employees who believe they have been unfairly dismissed can make an application under this Act. For example, an employee would not be eligible to bring a claim if the employee was:
 - dismissed after 1 January 2010 and was employed by a private sector employer
 - engaged under a contract of employment for a specified period of time, if the specified period is less than 6 months
 - engaged under a contract of employment for a specific task
 - engaged on probation where the probationary period was determined in advance and was of 3 months duration or less
 - employed on a casual basis for a short period
 - an employee of the state public sector or local government sector not covered by any award earning annual remuneration not greater than \$145,400 or such greater amount as may be prescribed by the regulations.

NOTE: If you consider the employee is not eligible, you may indicate that in response to question 10.

- The application must be filed **within 21 days** of the date when the employee believes he or she was dismissed. If the application is filed any later than that time the Commission will have to decide at some subsequent date whether the employee should have permission to continue with the claim.
- Please complete all of the details in this Reply form carefully. You are required to verify the details you include in this form by statutory declaration. Under the *Oaths Act 1900* (NSW) there are substantial penalties for knowingly making a declaration that is in any respect untrue.

Details in relation to the matter may be made to the Industrial Registry

Telephone: (02) 8688 3516

Registry Hours: 9.00am - 4.00pm

PLEASE COMPLETE THE FOLLOWING, and in doing so:

- Complete the right hand column only.
- Where you are asked for grounds or reasons, please **BE BRIEF** - you can give more details, if you wish, to the Commission at the first conciliation conference.
- You should ensure that the person attending the conciliation conference has the authority to settle the matter.

DETAILS THE EMPLOYER MUST COMPLETE													
1. Is the employer correctly identified on the front page?	Yes <input type="checkbox"/> No <input type="checkbox"/>												
2. If not, what is the correct name?												
3. Employer's registered office or trading address Postcode												
4. Details of contact person	<table style="width: 100%; border: none;"> <tr> <td style="width: 60%;">Family name</td> <td style="width: 40%;">Given names</td> </tr> <tr> <td colspan="2">.....</td> </tr> <tr> <td>Work:</td> <td>()</td> </tr> <tr> <td>Fax:</td> <td>()</td> </tr> <tr> <td>Email:</td> <td>.....</td> </tr> <tr> <td>Position:</td> <td>.....</td> </tr> </table>	Family name	Given names		Work:	()	Fax:	()	Email:	Position:
Family name	Given names												
.....													
Work:	()												
Fax:	()												
Email:												
Position:												

5. Award or agreement under which the employee was employed, if applicableAward/Agreement
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DETAILS OF REPRESENTATIVE

6. Is anyone representing the employer?	<input type="checkbox"/> No <input type="checkbox"/> Yes (go to question 9) <input type="checkbox"/> Employer Organisation <input type="checkbox"/> Solicitor / Lawyer <input type="checkbox"/> Other Representative
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7. Name of employer organisation, solicitor's firm or other representative
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8. Contact details of representative	<table style="width: 100%;"> <tr> <td style="width: 50%;">Family Name</td> <td style="width: 50%;">Given names</td> </tr> <tr> <td colspan="2">.....</td> </tr> <tr> <td colspan="2">Address</td> </tr> <tr> <td colspan="2">.....</td> </tr> <tr> <td colspan="2">.....</td> </tr> <tr> <td colspan="2"> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Miss <input type="checkbox"/> </td> </tr> <tr> <td colspan="2"> Other <input type="checkbox"/> <i>(Please specify)</i> </td> </tr> <tr> <td colspan="2">Work: ()</td> </tr> <tr> <td colspan="2">Fax: ()</td> </tr> <tr> <td colspan="2">Email:</td> </tr> </table>	Family Name	Given names		Address			Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Miss <input type="checkbox"/>		Other <input type="checkbox"/> <i>(Please specify)</i>		Work: ()		Fax: ()		Email:	
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Other <input type="checkbox"/> <i>(Please specify)</i>																					
Work: ()																					
Fax: ()																					
Email:																					

ADDRESS FOR NOTICES

9. Where do you want notices from the Commission sent?	Address in questions 2-4 <input type="checkbox"/> or 7-8 <input type="checkbox"/>
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RESPONSE TO APPLICATION

10. Do you have any response to the claim that the dismissal was harsh, unreasonable or unjust (limit your answer to the space provided in the attached page - if there is more you wish to say, tell the Commission at the conciliation conference)	
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LATE LODGEMENT (IF APPLICABLE)

11. If the application by your former employee has been lodged in the Commission more than 21 days after the day on which the dismissal took effect, the Commission must decide whether to accept the application. Subsection 85(3) of the *Industrial Relations Act 1996* provides that the Commission may accept an application that is lodged out of time if the Commission considers that there is sufficient reason to do so.

Do you object to the extension of time: Yes No

(Tick whichever is applicable)

If you are unrepresented, complete the following declaration:

Statutory Declaration

I.....of.....

(name)

(address)

.....

(occupation)

do solemnly and sincerely declare that the contents of this Reply as completed by me are true and correct to the best of my knowledge, information and belief and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1900* (NSW)

Declared by the Respondent at)

On)

Before me).....

Respondent

.....

Justice of the Peace

Justice of the Peace

Certificate under section 34 (1) (c) of Oaths Act 1900

* Please cross out any text that does not apply

I,, a JP of NSW....., certify:

[insert full name of JP]

[insert JP registration number]

1. *I saw the face of the declarant/deponent OR

*I did not see the face of the declarant/deponent because he/she was wearing a face covering, but I am satisfied that he/she had a special justification for not removing it, and

2. *I have known the person for at least 12 months OR

*I confirmed the person's identity with

[describe identification document relied on]

.....,

[insert signature of JP]

[date]

Only to be completed by represented respondents

.....

Respondent's representative

FINALLY:

- This Reply must be filed with the Industrial Registry within 10 days of receipt of the Registry letter and you must provide a copy immediately to the applicant, either personally or by post.
- Please read the **INFORMATION SHEET** provided to you by the Registry.
- You will be advised of a conciliation conference date before a member of the Commission. Please ensure that when you attend for the conciliation conference you are prepared to discuss the matter and the question of settlement. You should bring with you all relevant documents and, where possible, copies of those documents, that you have concerning the employment of your former employee for example, payments made upon termination.
- You should make every effort to contact your former employee with a view to settling the claim.

