

Instructions for completion

Originating Application – Fair Work Division

A small claim proceeding under the Fair Work Act 2009

If your claim is for \$100,000 or less and involves a breach of the National Employment Standards, a term of a Modern Award, an enterprise agreement, a workplace determination, a safety net contractual entitlement, a national minimum wage order, an equal remuneration order, or another Fair Work Commission order, or it relates to a dispute about other matters set out in section 548 of the Fair Work Act, you can elect to use the small claims procedure of this Court.

In a matter which is dealt with by the Court's small claims procedures:

- a. the court is not bound by any rules of evidence
- b. the court may correct any mistake in the application
- c. the court can act in an informal manner and without regard to legal form and technicalities, and
- d. neither party can be represented by a lawyer unless the court permits this.

If you elect to have your claim dealt with using the small claims procedure you need to tick the relevant box in the application.

1. This form is used for commencing a proceeding in the Fair Work Division of the Federal Circuit and Family Court of Australia (Division 2).
2. You must complete address for service details in the footer on page 1. All correspondence concerning the application will be sent to the email address or mailing address inserted and all documents in the proceedings will be deemed to have been served on you if emailed or posted to that address. If your address details change, you must file a notice of address for service within seven days, and serve a copy on all other parties: see rule 10.28.
3. You must insert the name/s and address/es of each respondent in the 'Important Notice to Respondent/s' box at the end of the form.
4. Applications in the Fair Work Division of the Court must be accompanied by one of the Fair Work Division claim forms where:
 - a. the application is alleging dismissal in contravention of a general protection;
 - b. unlawful termination of employment;
 - c. contravention of general protections under the *Fair Work Act 2009* including applications in relation to alleged discrimination or sexual harassment;
 - d. the applicant is applying for an order in relation to an alleged reprisal; or
 - e. the applicant requests that the Court's small claims procedures apply.
5. Where an accompanying claim form is not required, the grounds of this application must be set out in the application and must explain briefly the basis on which the orders are sought. The evidence supporting this application must be provided by affidavit/s or statement of claim or points of claim filed with this application: see subrule 8.04(1). An affidavit or statement of claim or points of claim is not required in certain circumstances: see subrule 8.04(2). For further information on requirements for affidavits: see Division 17.3 of the Rules.

6. An affidavit or statement of claim or points of claim must state the material facts on which the applicant relies: see subrule 8.04(3) and Division 13.1.
7. If your application is for interlocutory, interim or procedural orders in a proceeding which has already commenced, you should use the Interlocutory Application form.
8. If you are completing this application by hand and you need more space in any section, attach extra page/s as required.
9. Once complete, you must file this form electronically through eLodgment: see Rule 2.12(1). If you cannot electronically file this form you should contact the registry to discuss lodgement options.
10. Unless the Court orders otherwise, an application and other documents filed must be served as soon as practicable and at least five days before the first court date: see rule 8.05. Unless the Rules allow otherwise or the Court otherwise orders, the application filed (and any other documents filed with it) must be served personally: Division 10.1 of the Rules. The application and other documents must be served on each party and the person against whom orders are sought if that person is not a party.
11. You will need to serve a copy on the other party or parties and keep a copy for your records. The Court rules set out how the application may be served on various types of respondents.
12. You must file an affidavit which verifies service of the application and other filed documents on the respondent/s. The Affidavit of Service can be found on the [Court website](#).

Remove these instruction sheets before filing

IN THE FEDERAL CIRCUIT AND
FAMILY COURT OF AUSTRALIA (DIVISION 2)
AT [REGISTRY]
SMALL CLAIMS LIST *(delete if not applicable)*

File number

.....
Applicant

.....
Respondent

** Repeat as necessary for additional parties*

Originating Application – Fair Work Division

This application is commenced in the Court's jurisdiction under:

- ☐ the Fair Work Act 2009
☐ the Federal Safety Commissioner Act 2022
☐ the Fair Work (Registered Organisations) Act 2009

Small claims list

The applicant elects for these proceedings to be dealt with under the Court's small claims procedures (see section 548 of the Fair Work Act 2009).

Yes ☐ No ☐

First court date

This application is listed for hearing at (court location):

Court date and time (registry staff to insert): at am/pm.

All parties or their legal representatives should attend this hearing. Default orders may be made if any party fails to attend. The Court may hear and determine all interlocutory or final issues, or may give directions for the future conduct of the proceeding.

.....
(for) Registrar

Date:/...../.....
.....

Filed on behalf of
Prepared by Lawyer's code
Name of law firm
Address for service in Australia
State Postcode
Email DX
Tel Fax Attention

Final orders sought by applicant (select one box only)

☐ The orders sought by the applicant are set out in the claim filed with this application

☐ A claim has not been filed with this application and the orders sought by the applicant are:

(This option is only available if rule 31.08 or 31.13 applies to the proceeding. If so, state precisely each order sought by way of final relief)

1.

2.

3.

Grounds of application (select one box only)

☐ The grounds of the application are set out in the claim filed with this application

☐ A claim has not been filed with this application and the grounds of the application are:

(This option is only available if rule 31.08 or 31.13 applies to the proceeding. If so, state briefly the grounds of the application)

1.

2.

3.

Interlocutory, interim or procedural orders sought by applicant

(complete only if interlocutory, interim or procedural orders are sought)

1.

2.

3.

Signature of applicant, lawyer or authorised representative

.....

Signed by (print name)

☐ the applicant

☐ lawyer for the applicant

☐ authorised representative of the applicant

Date:/...../.....

IMPORTANT NOTICE TO RESPONDENT/S

To the respondent (name):
of (address):
.....
.....

* If there are two or more respondents, provide details
.....

You should seek legal advice about this application. You may file a response. If you file a response, you must file the response within 28 days of receiving this application. You may also need to file an affidavit or a statement of claim or points of claim: see rule 8.15 of the *Federal Circuit and Family Court of Australia (Division 2)(General Federal Law) Rules 2025*. If you do not file a response, you must file and serve a notice of address for service before the hearing.

Form approved by the Chief Judge for general federal law proceedings pursuant to subrule 2.06(1) for the purpose of Part 31 of the Rules

FW_Application_0925V1