

NOWACTUALLY

GUIDE

Inside The Process Of A Fair Work Claim



What happens next when a Fair Work claim is made?

Receiving a Fair Work application can feel overwhelming, particularly if you've never been through the process before. Understanding what happens next allows you to respond confidently, meet your obligations, and avoid making costly mistakes.

While every matter is different, most Fair Work Commission claims follow a similar pathway:

● Step 1: Application is lodged

An employee (or former employee) lodges an application with the Fair Work Commission.

This may include unfair dismissal, general protections, workplace disputes, and other employment-related applications.

● Step 2: The employer receives notification

The Fair Work Commission sends the application to the employer.

This will include:

- Details of the claim
- Required response forms
- Important deadlines
- Information about the next stage of the process

● Step 3: Prepare your response

This is where employers should gather all relevant information, prepare their response and submit to the Commission on or before the due date.

Common documents included in responses as evidence can involve:

- | | |
|------------------------|-----------------------------|
| • Employment contract | • Investigation records |
| • Position description | • Emails and correspondence |
| • Policies | • File notes |
| • Performance reviews | • Meeting notes |
| • Warning letters | • Termination letter |

● Step 4: Conciliation

Many matters proceed to conciliation. Conciliation where an independent Fair Work Commission conciliator assists both parties to explore whether the matter can be resolved without the need for a hearing. Conciliations are commonly conducted by telephone or video conference.

Possible outcomes include:

- Settlement agreement
- Statement of service
- Withdrawal of the application
- No agreement reached
- Application to a formal hearing

Step 5: If no agreement is reached

If conciliation is unsuccessful, the matter may continue.

Depending on the application, this could involve:

- Directions from the Commission
- Exchange of witness statements
- Submission of evidence
- Jurisdictional arguments
- Conferences
- Formal hearings before a Commission Member



This stage is significantly more formal and usually requires substantial preparation and legal representation.

Step 6: Hearing

If the matter proceeds, both parties present their evidence.

The Commission will consider matters such as:

- Whether there was a valid reason
- Procedural fairness
- Documentation
- Evidence
- Witnesses
- Legislative requirements

The Commission Member then makes a legally binding decision.

Step 7: Outcome

Possible outcomes vary depending on the application but may include:

- Application dismissed
- Settlement reached
- Reinstatement
- Compensation
- Orders made by the Commission

Key reminders for employers

- ✓ Respond promptly to all Fair Work correspondence
- ✓ Never ignore Commission deadlines
- ✓ Maintain accurate documentation throughout employment, not just when problems arise
- ✓ Follow a fair and consistent process
- ✓ Seek advice early if you're unsure

Remember...

Most Fair Work claims are not won or lost because of one decision. They are won or lost because of the **PROCESS** that led to that decision.

Good intentions don't defend Fair Work claims. **Good process does.**