

Form 7B

Application for reinstatement in relation to unlawful dismissal

Industrial Relations Act 1996 (NSW)
Occupational Health and Safety Act 2000 (NSW)

INDUSTRIAL COURT OF NEW SOUTH WALES

APPLICATION FOR REINSTATEMENT IN RELATION TO UNLAWFUL DISMISSAL

File Number:	IRC	of
Date Filed:		

SPECIAL NOTE FOR APPLICANTS

Section 23 of the Occupational Health and Safety Act 2000 states:

- (1) An employer must not dismiss an employee, injure an employee in his or her employment or alter an employee's position to his or her detriment because the employee:
- (a) makes a complaint about a workplace matter that the employee considers is not safe or is a risk to health, or
 - (b) is a member of an OHS committee or an OHS representative, or
 - (c) exercises any functions conferred on the employee under Division 2 (whether as such a member or representative or otherwise).

Note: Section 23A of the *Occupational Health and Safety Act 2000* and sections 210 (j) and 213 of the *Industrial Relations Act 1996* provide remedies (such as reinstatement or reimbursement) arising from a breach of this section.

- You must file your application **within 21 days** of the date when you believe you were unlawfully dismissed. If you file the application any later than that time, the Court will have to decide at some subsequent date whether you should have permission to continue with your claim. If the application is late, complete questions 33 and 34 in addition to questions 1–32.

- Please complete all of the details in this application form carefully. If you do not have a legal representative or union assisting you in completing this form, 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.
- You should personally attend the conciliation conference which will be convened after you file your application. In order to make the conciliation conference effective, the person attending the conference must have authority to settle the matter.

-

Details in relation to these matters are available from the Industrial Registry.

Telephone: (02) 9258 0866

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 Court at the first conciliation conference.

PERSONAL DETAILS OF THE EMPLOYEE (APPLICANT)																
1. Name	<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;">Family name</td> <td style="width: 50%; border: none;">Given names</td> </tr> <tr> <td style="border: none;">.....</td> <td style="border: none;">.....</td> </tr> </table>	Family name	Given names											
Family name	Given names															
.....															
2. Status/Title	<table style="width: 100%; border: none;"> <tr> <td style="width: 15%;">Mr</td> <td style="width: 15%;">Mrs</td> <td style="width: 15%;">Ms</td> <td style="width: 15%;">Miss</td> <td style="width: 40%;"></td> </tr> <tr> <td>Other</td> <td colspan="4">.....</td> </tr> <tr> <td colspan="5" style="text-align: center;">(specify)</td> </tr> </table>	Mr	Mrs	Ms	Miss		Other				(specify)				
Mr	Mrs	Ms	Miss													
Other															
(specify)																
3. Home address and contact details (Note: Do not use a post office box number)	Postcode: Work: () Home/after hours: () Fax: ()															
4. Date of birth	<table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">(day)</td> <td style="width: 33%;">(month)</td> <td style="width: 33%;">(year)</td> </tr> </table>	(day)	(month)	(year)												
(day)	(month)	(year)														

5. First language	English Other (specify) Interpreter needed? Yes No
6. Do you have any special requirements such as difficulties with access, hearing or impaired sight with which you require assistance at any proceedings in the Court?	
ABOUT THE EMPLOYER (RESPONDENT) AND THE EMPLOYMENT	
7. Employer's name	
8. Employer's registered office or trading address	
9. Your place of work	
10. Contact person for employer	Name: Phone: () Fax: ()
11. Employer's business or industry	
12. Your occupation—name of job or type of work performed for the employer	
13. Type of employment	Full-time Part-time (hours per week) Casual
14. Date of starting work with the employer	
15. Date of unlawful dismissal	
16. Last day worked (if different from answer to question 15)	
17. Did the employer provide reasons for dismissal?	Yes No
18. If provided, what were the reasons given?	

<p>19. If provided, attach a copy of any relevant documentation such as:</p> <ul style="list-style-type: none"> • any written termination notice • employment separation certificate • any letter or other document that sets out reasons for dismissal 	
OTHER DETAILS OF EMPLOYMENT	
<p>20. Name of State award or agreement applying to your employment (if any or if known)</p>	
<p>21. Name of Federal award or agreement applying to your employment (if you are eligible to bring a claim before the Industrial Relations Court of New South Wales)</p>	
<p>22. Are you a State public sector employee?</p>	<p style="text-align: center;">Yes No Don't know</p>
<p>23. What is your normal gross (before tax) pay every week?</p>	
<p>24. If you receive any extra non-wage benefits in your employment (eg private use of a car), please detail these if known</p>	
REASONS FOR APPLICATION	
<p>25. Why do you say your dismissal was unlawful? I was dismissed because:</p> <p>I made a OHS Complaint about a workplace safety matter I am a member of the workplace OHS Committee or an OHS representative I was exercising my functions as an OHS Committee member or representative</p> <p style="text-align: right;"><i>Please tick relevant box</i></p> <p>Please set out further information on the page attached to this form headed "Reasons for Application".</p>	

RELIEF SOUGHT	
26. What are you seeking? (Tick one or more boxes)	Reinstatement to your former position Re-employment to another position Monetary compensation
27. If you seek re-employment, not reinstatement, please detail the job you wish to obtain	
28. If you are seeking monetary compensation, please specify how much you seek and how you calculate the amount (Note: The monetary compensation that can be awarded to you is up to 6 months of your total remuneration)	
REPRESENTATION	
29. Are you being represented in this application?	Yes No
30. If you are being represented, please specify type of representative	Lawyer Union Other
31. Give details of the name address and telephone and/or fax number of your representative (Note: If you have nominated a representative, notices will be sent to the representative)	Name: Address: Telephone number: () Fax number: () DX:
LATE APPLICATIONS (IF APPLICABLE)	
33. Have you filed this application more than 21 days after the date that you believe you were unlawfully dismissed?	Yes No
34. If the answer to Question 33 is yes, what was the reason or reasons why your application was filed late? (Note: Please give short reasons, which may be expanded if necessary at a time nominated by the Court)	

If you are unrepresented, complete the following declaration:

Statutory Declaration

I....., of
(name) (address)

.....
do
(occupation)

solemnly and sincerely declare that the contents of this application form 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 Applicant at)
On)
Before me:)
Applicant

.....
Justice of the Peace

Only to be completed by represented applicants

.....
Applicant's representative

FINALLY:

- The Registry will post a copy of the application on the employer at the address you have shown
- You will be advised of a conciliation conference date before a member of the Court. 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 that you have concerning your employment (and, where possible, copies of those documents), together with a copy of this application form.
- Ensure you attach a copy of any written termination notice, employment separation certificate and any letter or document setting out the reasons for dismissal.

