

## Extra guidance for employers, employees on small claims court processes

5 September 2014

A Small Claims Guide is the latest educational resource now available from the Fair Work Ombudsman to assist both employers and employees.

The guide provides a detailed overview of what happens when an employee takes a small claims action to court to recover entitlements of up to \$20,000.

It can be downloaded at [www.fairwork.gov.au/smallclaims](http://www.fairwork.gov.au/smallclaims). There is also a series of short educative videos which cover topics explained in the guide.

Fair Work Ombudsman Natalie James says the resources have been provided both to assist workers seeking to recover entitlements and for employers who need to respond to claims filed against them.

“The guide will help to ensure workplace disputes are settled quickly and fairly in the small claims process with minimum expense to the parties involved,” she said.

“Having this guide available means we are now able to point workers and employers to an extremely helpful and thorough resource they can use to navigate their way through the process.”

The Small Claims Guide covers the procedural rules that apply to matters such as who can make a claim, time limits on making claims, fees that apply, where and how to file a claim in court and serving the respondent.

The guide also includes tips on completing court forms, filing evidence, what to expect on the day of the hearing and tips for employers on answering a small claims application.

When deciding whether to refer an employee to the small claims process, the Fair Work Ombudsman considers a range of factors.

These include the amount and types of entitlements involved, how serious the allegations are, the availability of evidence (including written records), the employee’s capability to follow the process and how long ago the employment ended.

Ms James says the small claims process is quicker, cheaper and more informal than regular court proceedings.

“Small claims matters are usually resolved with only one hearing and the simple process means there is generally no need for lawyers,” she said.

“Unlike formal litigation cases, small claims matters are run in an informal manner, as the Court is not bound by any rules of evidence or procedure in hearing them.”

In some cases, a lawyer from the Fair Work Ombudsman may seek leave to appear as a ‘Friend of the Court’, assisting the Court on points of law or raising awareness of important aspects of the case.

Ms James says the level of assistance provided by the Fair Work Ombudsman is considered on a case by case basis.

“We may, for example give greater help to a person with low literacy skills or from a non-English speaking background,” she said.

During 2013–14, the Fair Work Ombudsman assisted with 200 small claims applications by employees.

Ms James says it is important to note that the Fair Work Ombudsman continues to resolve the large majority of the thousands of cases of non-compliance it encounters each year without taking any enforcement action at all.

“We continue to place a high priority on promoting a culture of compliance by giving Australian workers and businesses accessible, reliable information about the workplace laws that apply to their workplaces – and assisting them to rectify any inadvertent non-compliance issues that do arise,” she said.

“Our preference for working co-operatively with employers and employees to resolve disputes through processes such as mediation and pre-complaint intervention is a strong feature of our work.

“We prefer to achieve compliance by helping parties to understand their obligations and come to a practical and sensible solution.”

Employers or employees seeking assistance can visit the Fair Work Ombudsman's website at [www.fairwork.gov.au](http://www.fairwork.gov.au) or contact the Fair Work Infoline on 13 13 94. An interpreter service is available on 13 14 50.

Online tools such as PayCheck Plus allow employers to determine the correct rates of pay that apply to their business.

Thousands of employers have used the MyAccount tool to save information about workplace laws tailored to their workplace.

Free courses available in the Online Learning Centre on the Fair Work Ombudsman's website include Difficult conversations in the workplace, Hiring new employees and Managing performance.

Small businesses can also sign up to a regular E-newsletter from the Fair Work Ombudsman with helpful workplace tips and information.

Small business employers calling the Fair Work Infoline can opt to be put through to the Small Business Helpline to receive priority service.

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**Page reference No: 5049**

## Contact us

Fair Work Online: [www.fairwork.gov.au](http://www.fairwork.gov.au)

Fair Work Infoline: 13 13 94

Need language help?

Contact the Translating and Interpreting Service (TIS) on 13 14 50

Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

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