Redundancy

Coronavirus and Australian workplace laws
If your workplace has been impacted by coronavirus, we have information about your workplace rights and obligations.

Redundancy happens when an employer either:
- doesn't need an employee's job to be done by anyone, or
- becomes insolvent or bankrupt.

Redundancy can happen when the business:
- introduces new technology (eg. the job can be done by a machine)
- slows down due to lower sales or production
- closes down
- relocates interstate or overseas
- restructures or reorganises because a merger or takeover happens.

What's a genuine redundancy?

A genuine redundancy is when:
- the person's job doesn't need to be done by anyone

When an employee's dismissal is a genuine redundancy the employee isn't able to make an unfair dismissal claim.

A dismissal is not a genuine redundancy if the employer:
- still needs the employee's job to be done by someone (eg. hires someone else to do the job)
- has not followed relevant requirements to consult with the employees about the redundancy under an award or registered agreement or
- could have reasonably, in the circumstances, given the employee another job within the employer's business or an associated entity.

Consulting with employees about major workplace changes

All awards and registered agreements have a consultation process for when there are major changes to the workplace, such as redundancies.

The consultation process sets out the things the employer needs to do when they decide to make changes to the business that are likely to result in redundancies. This has to be done as soon as possible after the decision has been made to make these changes.

Consultation requirements include:
- notifying the employees who may be affected by the proposed changes
- providing the employees with information about these changes and their expected effects
- discussing steps taken to avoid and minimise negative effects on the employees
- considering employees ideas or suggestions about the changes.

Best practice tip


If a business is considering redundancy of 15 or more staff, employers must give written notification to Services Australia of the proposed dismissals. More information, and a notification template, can be found on the Services Australia website (https://www.servicesaustralia.gov.au/organisations/business/services/centrelink/redundancy-information-employers).


Think a mistake might have been made?

For employees:

If you've lost your job, contact the Fair Work Commission (the Commission) first if you think you were sacked because of:

- a reason that is harsh, unjust or unreasonable
- another protected right.

You have 21 days starting from the day after you were dismissed to lodge an application with the Fair Work Commission. Check the information at the Commission website to find out if you can apply for:


If you think you haven’t been paid everything you’re owed:

- read about Notice and final pay (www.fairwork.gov.au/Ending-employment/notice-and-final-pay/default) to find out what you should get
- see our Help resolving workplace issues (www.fairwork.gov.au/How-we-will-help/How-we-help-you/Help-resolving-workplace-issues/default) section for practical advice on:
  - talking to your employer about fixing your notice and final pay if it’s wrong
  - getting help from us if you can’t resolve it.

For employers:

- check that the right Notice and final pay (www.fairwork.gov.au/Ending-employment/notice-and-final-pay/default) has been given
- read our Help resolving workplace issues (www.fairwork.gov.au/How-we-will-help/How-we-help-you/Help-resolving-workplace-issues/default) section for practical advice on:
  - talking to fix any problems
  - getting help from us if you still can’t resolve it.

What to do next

- Use our Notice and Redundancy Calculator (http://calculate.fairwork.gov.au/EndingEmployment) to check termination and redundancy entitlements
- Check your Award or agreement (www.fairwork.gov.au/awards-and-agreements/default) to find more information about consultation requirements
- Find out more about Unfair dismissal (www.fairwork.gov.au/ending-employment/unfair-dismissal)
- See what support is available in the Department of Jobs and Small Business Redundancy Information Statement (https://what-snext.employment.gov.au/support-retrenched-workers)
- Go to the Department of Human Services website (http://www.humanservices.gov.au/customer/enablers/waiting-periods) for information about waiting periods that may apply before receiving income support payments.

Help for small business

You might also be interested in


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