

# Disputes with your Employer - A Fact Sheet

## What are denied contractual benefits?

If an employee is entitled to benefits (for example wages) under their employment contract (not an award or industrial agreement), and they are not paid those benefits, they have been denied their contractual benefits.

## What is the first step I need to take?

You should first try talking to your employer about the issue or write them a letter setting out the details of your claim. If this doesn't work, and you can't come to an agreement, you can make a claim in the Industrial Relations Commission.

## Are there any requirements that have to be met before such a claim may be made?

To make a claim you must:

- Be an employee;
- Earn below a set ceiling—note that this amount can vary from time to time. It is advisable to check the current set ceiling on the [WA Industrial Relations Commission website](#) if you are a state system employee, or the [Fair Work Commission website](#) if you are a federal system employee; and
- Be able to specify what benefit you were entitled to and what it is you are claiming.

## Where can I make a claim?

You can make a claim in either the WA Industrial Relations Commission or the Fair Work Commission depending on whether you're an employee with the state or federal systems of employment in Australia.

## Am I part of the state or federal employment system, and what is the difference between them?

It can be difficult to know what law applies and what your rights are because there are two different systems of employment law – state and federal.

If you are a sole trader or in a business partnership, you fall under the state system.

This means your employment is governed by the *Industrial Relations Act 1979 (WA)*, and any disputes you have are heard in the WA Industrial Relations Commission.

If you work for a Proprietary Limited (Pty Ltd) company, you're part of the federal system, where the *Fair Work Act 2009 (Cth)* applies and disputes go to the Fair Work Commission. We recommend you get legal advice before making a claim in any tribunal.

If you're unsure which system applies to your employment, you can contact the Fair Work Commission Help Line, Wageline or the Employment Law Centre of WA (now part of Circle Green Community Legal) for more information.

## Is there a time limit for making a denied contractual benefits application?

Yes, there is. Claims for unpaid employee benefits need to be started within six years of the benefits becoming payable. It's advisable to start your application as soon as possible.

## Is there a lodgment fee?

Yes, making a claim involves a lodgment fee. Check with the [WA Industrial Relations Commission](#) or the [Fair Work Commission](#) to find out what the relevant fee is.

## What is unfair dismissal?

Unfair dismissal is when an employee's dismissal from employment is harsh, unjust, or unreasonable.

## Is there a time limit for making an unfair dismissal application?

Yes, there is a time limit. If you are claiming in the Fair Work Commission, you have 21 days from the date of dismissal to make the application.

If claiming in the WA Industrial Relations Commission, you have 28 days after the day of dismissal. These times may be able to be extended in some circumstances.

**Need Advice?** Call Citizens Advice Bureau on **(08) 9221 5711**, or visit **[www.cabwa.com.au](http://www.cabwa.com.au)**



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