

**MAGISTRATES' COURT OF VICTORIA**  
**AT MELBOURNE**  
**INDUSTRIAL DIVISION**

**Court Case Number** *(to be provided by the court):*

**BETWEEN**

Of: *(address)*

Employee

**AND**

Of: *(address)*

Employer

**SMALL CLAIM APPLICATION FORM**

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TO THE EMPLOYER

TAKE NOTICE that this SMALL CLAIM has been brought against you on the basis set out in the pages attached.

If you intend to defend this Small Claim you must complete a "Response to Claim Form" within 21 days of service on you of this Small Claim and give it to:

(a) the Employee whose address for service is set out in this form.

**AND**

(b) the Registrar of the Magistrates' Court of Victoria in Melbourne.

You should have received a blank copy of the "Response to Small Claim Form" when served with this Small Claim.

If you submit a "Response to Small Claim Form" the Court will write to you and tell you the date you need to attend a Directions Hearing.

A Directions Hearing is used by the Court to organise how the Small Claim will be heard. A Directions Hearing is **NOT** the final hearing of the Small Claim. A final hearing will happen at some future date, if the matter does not resolve.

**IF YOU WANT TO DEFEND THE SMALL CLAIM** but fail to submit a "Response to Small Claim Form" within 21 days of service on you of the Small Claim the Employee may be able to obtain an order against you for the amount claimed together with Court Fees without further notice to you.

**IF YOU DO NOT WANT TO DEFEND THE SMALL CLAIM** but you pay the amount of \$ and Court Fees of \$ to the Employee, Employee's solicitor or other named Representative within 21 days of service on you of the Small Claim you may avoid further costs.\*

**\*Section 570 of the Fair Work Act 2009 makes allowance for a costs order to be awarded in limited circumstances.**

## EMPLOYEE DETAILS

<b>Employee</b>	<b>Name:</b>
	<b>Address:</b>  <b>Postcode:</b>
<b>Address for service</b>	<b>Address for service of court documents if different from above:</b>  <b>Postcode:</b>  <b>If you are a member of a union, do you want the Court to send the union a copy of the documents that it sends to you?</b>  <b>Yes</b> <input type="checkbox"/> <b>No</b> <input type="checkbox"/>  If yes, please fill in the details of your union's name and contact details on the next page under "Details of Representation"
<b>Contact details of Employee</b>	<b>Telephone during business hours:</b> (      )
	<b>Mobile Telephone:</b>
	<b>Fax Number:</b> (      )
	<b>Email Address:</b>
<b>Date of birth of Employee</b>	<b>Date of Birth</b> (if under 21 years):

**DETAILS OF REPRESENTATION OF EMPLOYEE**

**Is anyone representing you?**

The Small Claims procedure does not allow a party to be represented by a legal practitioner unless the Court grants permission

**If you intend to seek to be represented, please provide details:**

- Union**
- Solicitor**
- Other Representative**

**Contact details of representative (if any)**

**Name of Union, Solicitor or Other Representative:**

**Name of contact person:**

**Address:**

**Postcode:**

**Email Address:**

**Work telephone: (       )**

**Fax Number: (       )**

## EMPLOYER DETAILS

You may sue your employer in ONE of the following capacities. Please provide details for ONE applicable option below:

<b><u>Option 1:</u></b> <b>Claim against an Individual</b>	<b>Name of Person</b> <i>(including trading name if applicable):</i>  <b>Address:</b>  <b>Postcode:</b>
<b><u>Option 2:</u></b> <b>Claim against a Business</b>	<b>Name of the Business</b> <i>(including trading name and ABN if applicable):</i>  <b>Address at which Business is conducted:</b>  <b>Postcode:</b>
<b><u>Option 3:</u></b> <b>Claim against a Company</b>	<b>Name of the Company</b> <i>(including ACN):</i>  <b>Address of the Company's registered office</b> <i>(as per ASIC search):</i>  <b>Postcode:</b>

## EMPLOYMENT DETAILS

<b>Employment status</b>	<b>Job title:</b>  <b>Date employment commenced:</b>  <b>Are you still employed by the employer?</b> Yes <input type="checkbox"/> No <input type="checkbox"/>  <b>If no, date employment ended:</b>
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## NATURE OF EMPLOYMENT

### Hours of work

Upon what basis were you employed?

Full time  Part-time  Casual  Fixed Term  Seasonal

Did you work regular hours?

Yes  No

If yes, please indicate your start and finish times (state am or pm) for each of the below days:

Day	Start time	Finish time
Monday	am/pm	am/pm
Tuesday	am/pm	am/pm
Wednesday	am/pm	am/pm
Thursday	am/pm	am/pm
Friday	am/pm	am/pm
Saturday	am/pm	am/pm
Sunday	am/pm	am/pm

How many hours per week did you work? (Provide average or range if set hours not applicable)

## TYPE OF CLAIM MADE

This claim is made because the employer has breached (please select):

- A term of an award (specify name of award):  
and/or
- A term of an Enterprise Agreement (or transitional agreement) (specify name of agreement):  
and/or
- A term of an Australian Workplace Agreement (specify the relevant terms):  
and/or
- A term of the National Employment Standards ( specify the relevant terms):  
and/or
- A term of an order of the Fair Work Commission (specify the term of the order):  
and/or
- The Fair Work Act 2009 (specify relevant section/s):

## BREACHES

**Please indicate which of the following are applicable and the amounts you are claiming:**

- |                          |  |           |
|--------------------------|--|-----------|
| <input type="checkbox"/> | <b>Failure to pay wages</b>  | <b>\$</b> |
| <input type="checkbox"/> | <b>Failure to pay commission</b>   |           |
| <input type="checkbox"/> | <b>Failure to pay entitlements such as<br/>(i.e. sick leave, annual leave or carers leave)</b> | <b>\$</b> |
| <input type="checkbox"/> | <b>Failure to pay penalty rates</b>  | <b>\$</b> |
| <input type="checkbox"/> | <b>Failure to pay allowances</b>   | <b>\$</b> |
| <input type="checkbox"/> | <b>Failure to pay National Employment Standards (NES)<br/>on termination of employment</b>     | <b>\$</b> |
| <input type="checkbox"/> | <b>Unauthorised deduction from wages</b>   | <b>\$</b> |

**Total of all breaches:      \$**

\_\_\_\_\_

## PARTICULARS OF BREACHES

Describe the facts of each breach you have selected above, including the relevant dates and method of calculation for the amounts you are claiming. Include any relevant industrial instrument that applied to your employment (attach further sheets if you require more space).



## ORDERS SOUGHT BY EMPLOYEE

The Employee seeks orders that the Employer:

- Pay monies in the sum of the breaches claimed and/or \$
- Do something else (please specify)

## THE HEARING

If this matter proceeds to a hearing before the Court parties may only be legally represented with the permission of the Court.

I ELECT TO HAVE THIS MATTER HEARD AS A SMALL CLAIM UNDER SECTION 548 OF THE FAIR WORK ACT 2009

**Signature and printed name of the employee / representative:**

\_\_\_\_\_

**Date:**        /        /