## Applicant’s Outline of argument: Extension of time

The *Fair Work Act 2009* requires that an application for unfair dismissal be made within 21 days after a dismissal took effect.

Your application for unfair dismissal appears to be made outside of that time frame. Before the Fair Work Commission (the Commission) can deal with your application for unfair dismissal, it must consider whether it has the power to make a decision about your dismissal.

In considering whether to allow a further period of time to lodge your application, the Commission must take into account:

* the reason for the delay
* whether you first became aware of the dismissal after it had taken effect
* any action you took to dispute the dismissal
* if there is any disadvantage to the employer (including disadvantage caused by the delay)
* the merits of the application
* fairness as between you and any other persons in a similar position.

In order for the Commission to allow this further period of time, it must be satisfied that there were 'exceptional circumstances' which led to your application being made outside of the time frame.

### What is an Outline of argument: Extension of time?

Use this document to respond to the issues raised by the Fair Work Commission.

This document provides a summary of the facts that are relevant to the Commission Member deciding whether you should be allowed to continue with your unfair dismissal application.

This document will help you answer the questions the Commission Member will have about your case.

### What to do with your completed Outline of argument: Extension of time

Once all your documents are completed, make sure you send a copy to both the Commission and the respondent (the employer). The documents should be sent to:

1. The postal or email address of the respondent as set out in their F3—Employer's response to unfair dismissal application, and
2. The postal or email address of the chambers of the Member as set out in the requirements.

On the day of the proceedings, make sure you bring a copy of all the material that both you and the respondent (the employer) have lodged.

### Matter details

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| **Matter number** (e.g. U2015/12345) |  |
| **Applicant** (you, the employee) |  |
| **Applicant’s representative** (if any) |  |
| **Respondent** (the employer) |  |
| **Respondent’s representative** (if any) |  |

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| About out of time applications The Commission does not have jurisdiction to hear the merits of an unfair dismissal application that is not lodged within time.The application must be lodged within 21 days after the dismissal took effect.The Commission may allow a further period for your application if the Commission Member is satisfied that there were ‘exceptional circumstances’ that led to it being lodged out of time.**Related legislation** Section 394(2) and (3) of the *Fair Work Act 2009* |

#### 1. When were you notified of the dismissal?

(I.e. what date were you told?)

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#### 2. How were you notified of the dismissal?

(E.g. verbally (face to face, by telephone), letter, text message)

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#### 3. What date did your dismissal take effect?

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#### 4. Did you make your unfair dismissal application within 21 days of when the dismissal took effect?

[ ]  **Yes**

[ ]  **No**—Explain below why your application was made more than 21 days after your dismissal took effect

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#### 5. Did you question or argue against the dismissal after you became aware of it?

[ ]  **No**

[ ]  **Yes**—Describe below what you said or did

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#### 6. Do you consider that the lateness of the application has caused your employer disadvantage or unfairness?

#### [ ]  Yes—Please provide reasons below

#### [ ]  No—Please provide reasons below

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#### 7. Why do you think your dismissal was unfair?

Please use numbered paragraphs or dot points.

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#### 8. If applicable, describe how you think your situation is more or less fair than the situation of other people in a similar position.

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#### 9. Do you have any witnesses that will support your application for an extension of time?

[ ]  **Yes**—Provide witness statement in table below

[ ]  **No**—End

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| **Witness name:**  |
| **Witness statement:** |

Provide additional pages if required.