



Getting it right the first time

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A recent Full Bench decision of the Fair Work Commission has highlighted the importance of properly electing whether to pursue relief for unfair dismissal or a general protections dispute when your employment is terminated and you believe it shouldn't have been.

When the *Fair Work Act 2009* ("the Act") first came into force, it provided for different time limits for application for relief from unfair dismissal and general protections disputes involving a dismissal, being 14 days and 60 days. These time limits were amended effective 1 January 2013, to be 21 days for both types of applications.

Although the Fair Work Commission is relatively informal in its processes and has broad discretion to correct or amend applications under section 586 of the Act, in *Peter Ioannau v Northern Belting Services Pty Limited* [2014] FWCFB 6660, the Full Bench held that section 725 of the Act meant that an applicant must withdraw the application before being able to pursue the other application.

The practical effect of being required to withdraw the application before making the other application is that the applicant would need to convince the Fair Work Commission that there are exceptional circumstances to allow a further period in which to file the new application. As the words themselves suggest, 'exceptional circumstances' occur exceptionally.

Applications for relief from unfair dismissal and general protections disputes involving dismissal are very different applications, but both can be grounded on a similar factual matrix. There are many reasons an applicant would elect one type of application over another, such as the jurisdictional pre-requisites of one type not being met.

Hall Payne Lawyers has significant expertise in assisting individuals when their employment is terminated. For further information on your rights when your employment is terminated, please contact Hall Payne Lawyers. One of our Employment and Industrial Relations solicitors will be available to help you. [Click here to find out more about our services.](#)

