



Redundancy pay and notice entitlements

Author: [Madeleine O'Brien](#)

Email: madeleineo@hallpayne.com.au

Phone: 03 9906 9500

Date: Saturday December 14, 2024

A [genuine redundancy](#) occurs when an employee's employment is terminated at the employer's initiative because the employer no longer requires that job to be done by anyone. The exception to this is where the employment ends due to the "ordinary and customary turnover of labour", which we discuss in more detail below.

A redundancy can still be a genuine redundancy even if, for example, some or all duties performed by the employee still need to be performed but are instead "reallocated" or "absorbed" by one or more other employees or contractors as part of a restructure.

Unfair dismissal and other claims if your redundancy is not "genuine"

If you suspect your redundancy is not genuine, you may be eligible to make an [unfair dismissal claim](#) or other application in the Fair Work Commission. Certain eligibility criteria must be met, and strict time limits apply.

If one of the reasons for the redundancy was an unlawful or prohibited reason, you may be eligible to make an application to the Fair Work Commission alleging breach of the [general protections provisions](#) in the *Fair Work Act* (again, strict time limits may apply); for example, your employer made your role redundant because you made a complaint or enquiry about your employment or because of your race, sex, gender, pregnancy, disability or other protected attribute.

Am I entitled to redundancy pay?

In the case of a genuine redundancy under *Fair Work Act*, an employee is entitled to receive:

- notice (or payment in lieu of notice); and
- redundancy pay – a lump sum payment.

How much is redundancy pay?

Redundancy pay is calculated based on the employee's period of continuous service with the employer. In most cases, continuous service does not include periods of service as a casual employee. The tables below set out the notice period requirements for a genuine redundancy and the redundancy pay applicable dependent on the length of service.

Notice period requirements due to genuine redundancy

Continuous Service	Notice
Not more than 1 year	1 week
More than 1 year but not more than 3 years	2 weeks
More than 3 years but not more than 5 years	3 weeks
More than 5 years	4 weeks
If the employee is over 45 years old and has completed at least 2 years of continuous service with the employer, they are entitled to an additional 1 week of notice.	

Redundancy pay

Continuous Service	Redundancy Payment
At least 1 year but less than 2 years	4 weeks
At least 2 years but less than 3 years	6 weeks
At least 3 years but less than 4 years	7 weeks
At least 4 years but less than 5 years	8 weeks
At least 5 years but less than 6 years	10 weeks
At least 6 years but less than 7 years	11 weeks
At least 7 years but less than 8 years	13 weeks
At least 8 years but less than 9 years	14 weeks
At least 9 years but less than 10 years	16 weeks
At least 10 years	12 weeks

Notably, an employee being made redundant will be entitled to payment of any accrued annual leave, and long service leave may also be applicable.

Am I entitled to more than the *Fair Work Act* redundancy entitlements?

It is important to check and understand the terms of your employment, which may be contained in an employment contract or letter of offer, [modern award, or enterprise agreement](#).

This is because you may have a more beneficial notice or redundancy entitlement than the minimum entitlements contained in the *Fair Work Act*. For example, your employment contract may provide for a longer notice period or more valuable redundancy pay. It is also not uncommon for enterprise agreements to have more favourable redundancy entitlements.

Can my redundancy pay be reduced by my employer?

An employer can apply to the Fair Work Commission ("FWC") to vary an employee's redundancy pay under the *Fair Work Act* where the employer:

- obtains other acceptable employment for the employee; or
- cannot pay the amount of the employee's entitlement.

The FWC must make a determination according to the circumstances of each individual case. It may order the redundancy pay to be reduced to a specific amount or, in some cases, not be paid at all.

It's important to note that only the FWC can vary an employee's redundancy pay. The employer cannot vary the amount without an order from the FWC.

If your employer is attempting to reduce your redundancy pay, you should seek legal advice from an experienced employment lawyer.

[GET ADVICE FROM AN EMPLOYMENT LAWYER: 1800 659 114](#)

You can read more about this in our earlier blog, ["Can my redundancy payment be reduced by my employer?"](#)

Who does not get redundancy pay?

The entitlement to redundancy pay under the *Fair Work Act* does not apply to:

- employees with less than 12 months continuous service;
- employees of small business employers.

Other rights and entitlements when being made redundant

Employers must consult with employees

All modern awards and enterprise agreements require employers to consult with employees about major changes in the workplace, including changes to hours of work and redundancies.

Failure to comply with consultation obligations may mean that an employer has contravened the applicable award or enterprise agreement. Such a contravention would enable the employee, or the employee's union on the employee's behalf, to make an application to a court for orders in relation to the contravention, including that a penalty be paid by the employer. It may also render any redundancy process an unfair dismissal.

Get help from an employment lawyer

Your notice and redundancy entitlement may be different from the minimum entitlements set out in the *Fair Work Act*. An application by an employer to reduce redundancy pay can also be complex to navigate and requires a determination by the Fair Work Commission.

If you need help understanding what you are entitled to, or if you think your redundancy was not genuine, you should seek advice from one of our employment lawyers. We can provide you with expert advice on your rights and entitlements. Strict time limits can apply to certain claims, so it is important to act quickly.

Contacting Hall Payne Lawyers

You can contact us by phone or email to arrange your consultation; either face-to-face at one of our offices, by telephone or by videoconference consultation.

Phone: [1800 659 114](tel:1800659114)

Email: general@hallpayne.com.au

This article relates to Australian law; either at a State or Federal level. The information contained on this site is for general guidance only. No person should act or refrain from acting on the basis of such information. Appropriate professional advice should be sought based upon your particular circumstances. For further information, please do not hesitate to contact Hall Payne Lawyers.