

Senate Standing Committee on Education and Employment

QUESTIONS ON NOTICE Supplementary Budget Estimates 2015 - 2016

Agency - Fair Work Commission

Department of Employment Question No. EMSQ15-000485

Senator McKenzie provided in writing.

Question

FWC - Number of unfair dismissals

With regard to FWC records on the number of unfair dismissal applications filed each year, and the number of general protections (involving dismissal) matters filed each year:

1. Can you provide the number of unfair dismissal applications and general protections applications since the commencement of the Fair Work Act?
2. Can you provide an update on the number of unfair dismissal applications that were filed in the last six months?
 - a) Of these, how many settled at conciliation and how many proceeded to a hearing?
3. If available, can you provide details on the number of settlements that involved a payment in settlement?
4. Can you update the number of general protections dismissal applications that were filed in the last six months?
 - a) Of these, how many settled at conciliation and how many continued beyond conciliation?
5. Of those that settled at the Commission do you have details on the number of settlements that involved a payment? If so, please provide them.

Answer

1. Please find a table, over, showing the number of unfair dismissal and general protections applications since the commencement of the *Fair Work Act 2009* on 1 July 2009.

Table – lodgments – unfair dismissal and general protections (involving dismissal) applications

Application type	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15
s.394 unfair dismissal	11 116	12 840	14 027	14 818	14 797	14 624
s.365 general protections (involving dismissal)	1188	1871	2162	2429	2879	3382

2. The table below provides the number of lodgments and the number and method of finalisation of applications in the period 01 May -31 October 2015. The applications finalised are those completed in the period and will include applications that were lodged outside the time period. The table shows the Commission finalised more applications than it received in this period.

Table - Unfair dismissal lodgments and finalisation – stage of proceeding 01 May – October 2015

Stage of proceeding	01 May - 31 Oct 2015
Lodgments	7442
Matters finalised prior to conciliation	1068
Matters settled at conciliation	4356
<i>Matters finalised at or prior to conciliation</i>	<i>5424 (70%)</i>
Matters finalised after conciliation and before a formal proceedings before a FWC Member	1551
Matters withdrawn after conference/hearing and before decision/order	58
Matters finalised by administrative dismissal	146
Matters finalised at jurisdiction	426
<i>Matters finalised prior to arbitrated orders</i>	<i>2184 (28%)</i>
Matters finalised at arbitration	165
<i>Matters finalised with an arbitrated order (substantive arbitrations)</i>	<i>165 (2%)</i>
Total Finalised Matters Australia-wide	7773

3. Information about outcomes in unfair dismissal applications is published on the Commission's website so that parties have information about how previous matters have been finalised.
www.fwc.gov.au/resolving-issues-disputes-and-dismissals/dismissal-termination-redundancy/results-outcomes.

Table - Unfair dismissal conciliation results – summary outcomes
 01 May - 31 October 2015

RESULT TYPE	Year to date total
Settled	4356
Settled: Monetary	855
Settled: Monetary + non-monetary	2558
Settled: Non-monetary	908
Settled: Reinstatement	14
Settled: Reinstatement + monetary	9
Settled: Reinstatement + non-monetary	8
Settled: Reinstatement, monetary + non-monetary	4
Not Settled	1120
Total resulted conciliations Australia-wide	5476
Settlement rate (%)	79.5%

4. In the period 01 May – 31 October 2015, the Commission received 1, 541 applications for assistance to resolve disputes about general protections (involving dismissal).

In the same period, staff conciliators concluded 709 conferences. 511 of these (72.3 per cent) were resolved as a result of that conference. Those not resolved were referred to Members of the Commission.

5. The Commission has been collecting more comprehensive data about outcomes in general protections disputes (involving dismissal) since 1 July 2015. This data is currently undergoing quality assurance processes. The Commission intends to publish the first six months of this administrative data on its website in early 2016.