

Sample Statement of claim

This is a sample only. It is important to complete this form with your own details and based on your own circumstances. If you need more help, you should get legal advice.

Form 17

Rule 8.05(1)(a)

Statement of claim

No. **(P)SYG001** of 20**13**

Federal **Circuit and Family** Court of Australia

District Registry: **NSW**

Division: **Fair Work Division**

Kim-Ly Geun

Applicant

Tasty Food Pty Ltd

ACN 111 222 333

Respondent

1. **The applicant claims the relief sought in the originating application.**

The Respondent

2. **At all material times the respondent was:**

- a. **a corporation registered in the State of New South Wales**
- b. **a National System Employer as defined in section 14 of the *Fair Work Act 2009* (Cth).**

The Applicant's claim

3. **At all material times the applicant's employment was subject to the Restaurant Industry Award 2010 ("the Award").**
4. **The applicant commenced employment with the respondent as a full-time Grade 2 Food and Beverage Attendant on 2 June 2010.**

Particulars

Signed letter of offer dated 1 June 2010.

5. **Franklin Mount for the respondent informed the applicant that her position was being made redundant on 13 June 2013.**

Filed on behalf of (name & role of party) **Kim-Ly Geun, the applicant**

Prepared by (name of person/lawyer) **Kim-Ly Geun**

Law firm (if applicable)

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[Form approved 01/08/2011]

6. The applicant's last day of employment was 27 June 2013.
7. From 2 June 2010 to 27 June 2013, the applicant worked 38 hours per week on the following days and hours (including one hour meal break):
 - a. Monday to Thursday - 3pm to 11.30pm
 - b. Friday - 3pm to 12am.
8. As at the applicant's last day of employment, the applicant was paid at the rate of \$17.49 per hour, or \$664.80 per week (before tax).
9. The applicant's final pay was received in the applicant's bank account on 27 June 2013 ("the final pay"). On the same day the applicant received a final pay slip ("the final pay slip").
10. The final pay and the final pay slip did not include payments for the following amounts:
 - a. unused annual leave
 - b. leave loading on unused annual leave
 - c. redundancy pay
 - d. payment in lieu of notice.
11. Under the National Employment Standards ("the NES") the applicant was entitled to four weeks annual leave, or 20 working days, for each year of service.
12. From 2 June 2010 to 3 June 2013, the applicant took a total of 40 days annual leave

Particulars

5 June 2012 to 10 July 2012 - 25 days

23 December 2012 to 8 January 2013 - 15 days

13. Under the Award, the applicant was entitled to leave loading at the rate of 17.5% upon any payment for leave or any payment for unused leave upon termination of employment.

Particulars

Clause 35.2(b) of the *Restaurant Industry Award 2010*

14. Under the NES, the applicant was entitled to seven weeks redundancy pay.

Particulars

Section 119 of the *Fair Work Act 2009* (Cth)

15. Under the NES, the applicant was entitled to three weeks' notice or payment in lieu of notice.

Particulars

Section 117 of the *Fair Work Act 2009* (Cth)

16. The respondent provided the applicant with two weeks written notice.

Relief sought

17. The applicant claims \$8,677.30 plus interest:
- a. payment for unused annual leave of 22.1 days (or 4.3 weeks) - \$2,858.64
 - b. leave loading at 17.5% on the payment at a. - \$500.26
 - c. redundancy payment equal to seven weeks pay - \$4,653.60
 - d. payment in lieu of notice equal to one weeks' pay - \$664.80
 - e. interest on the amounts at 17a. to 17d. at the rate prescribed in rule 22.07 of the *Federal Circuit and Family Court of Australia (Division 2)(General Federal Law) Rules 2021*.

Date: 28 November 2013

K Geun

Signed by **Kim-Ly Geun**
Applicant

This pleading was prepared by [Name], lawyer

Certificate of lawyer

~~I [name of lawyer] certify to the Court that, in relation to the statement of claim filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.~~

~~Date: [eg 19 June 20..]~~

~~Signed by [Name of lawyer]
Lawyer for the Applicant~~