MAGISTRATES COURT OF TASMANIA

CIVIL DIVISION

FW01

**CLAIM**

(Claim by an employee / other against an employer / other)

**MAGISTRATES COURT** **ACTION No.**

Location: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**EMPLOYEE: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

*(full name)*

**EMPLOYER: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

*(full name)*

**CLAIM BY AN EMPLOYEE AGAINST AN EMPLOYER / OTHER**

**MAXIMUM CLAIM $20,000**

TO THE EMPLOYER / OTHER

TAKE NOTICE that this claim has been brought against you by the Employee / Other for the claim set out in the attached pages.

IF YOU INTEND TO DEFEND this claim, YOU MUST submit the form titled “RESPONSE”, within 21 days of service upon you of the claim, to the District Registrar of the Magistrates Court of Tasmania. YOU MUST then serve a copy to the Employee / Other whose address for service is set out in the attached form.

YOU WILL receive a blank copy of the form “RESPONSE” with this claim.

IF YOU SUBMIT your completed “RESPONSE”, the Court will send a notice to you advising of the hearing date.

IF YOU DO NOT SUBMIT your completed “RESPONSE” within the 21 days of service, the Employee / Other may obtain an ORDER against you for the amount of the claim and costs without further notice.

IF YOU PAY the amount of the claim to the Employee / Other or the Employee or Other’s solicitor without giving notice of defence you may avoid further costs.

Court Seal

|  |  |
| --- | --- |
| **EMPLOYEE / OTHER DETAILS** | |
| **Address for Service of Documents** | Address:      Postcode:    If you are a member of a union, would you like the Court to send the union a copy of the documents that it sends to you? Yes 🞏 No 🞏  If yes, please fill in the details of your union’s name and contact details under “Details of Representation” |
| **Contact Details** | Telephone during business hours: ( ) |
| Mobile Telephone: |
| Fax Number: ( ) |
| **Date of Birth** | (If under 21 years) \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ |
| **DETAILS OF REPRESENTATION** | |
| **Is anyone representing the employee / other?** | Yes 🞏 No 🞏  *Please note that the parties may be represented by a barrister or solicitor in a small claims proceeding only if the Court permits.*  If yes, please provide details:  🞏 Union  🞏 Solicitor  🞏 Other representative |
| **Contact details of representative (if any)** | Name of union, solicitor’s firm or other representative:  Name of contact person:  Address:  Postcode:  Work Telephone: ( )  Fax Number: ( ) |

|  |  |
| --- | --- |
| **EMPLOYER / OTHER DETAILS** | |
| **Employer or other’s name** | Name: |
|  | Company Name *(if applicable)*: |
| **Address** | Trading Name: |
|  | Address:  Postcode: |
| **Contact details** | Telephone: ( ) |
|  | Fax Number: ( ) |

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| --- | --- |
| **CLAIM PROCEDURE** | |
| **I am making this claim as:** | Please tick  🞏 a civil contract of employment claim; or  🞏 a claim for entitlements due under the *Fair Work Act 2009*; or  🞏 a small claims proceeding under the *Fair Work Act 2009*; or  🞏 a claim as an outworker; or  🞏 other; and/or  🞏 an application that a penalty be applied. |
| **EMPLOYEE OR OTHER’S CLAIM** | |
| **This claim is made because the employer / other has breached:** | Please select  🞏 A term of a Modern Award *(specify the Modern Award and relevant term/s):*      🞏 A term of an enterprise agreement *(specify the enterprise agreement and the relevant term/s):*  🞏 A term of the National Employment Standards *(specify):*  🞏 A workplace determination *(specify the determination and relevant provision/s):*  🞏 A national minimum wage order *(specify):*  🞏 An equal remuneration order *(specify):*  🞏 A safety net contractual entitlement *(specify):*  🞏 A term of a contract of other breach *(please specify):* |
| **Employment details** | Location of employment: |
| Date employment started: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  The employee is still employed by the employer: Yes 🞏 No 🞏  If no, date employment ended: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ |
| **Employment status** | Employment status (please tick one only):  Full time 🞏 Part-time 🞏 Casual 🞏 Fixed Term 🞏 Seasonal 🞏 |
| **Hours of work** | Hours of work:  Did the employee work regular hours: Yes 🞏 No 🞏  If yes, complete the following:   |  |  |  | | --- | --- | --- | | **Day** | **Start Time**  **(state am or pm)** | **Finish Time**  **(state am or pm)** | | Monday |  |  | | Tuesday |  |  | | Wednesday |  |  | | Thursday |  |  | | Friday |  |  | | Saturday |  |  | | Sunday |  |  | |
| **Occupation** | Job Title: |
| **Duties** | A brief summary of the employee’s duties: |
| **Classification** | Classification level under the award / agreement / Australian Workplace Agreement / order: |

|  |
| --- |
| **TYPE OF BREACH/ES CLAIMED**  **(This information must be carefully copied into the accompanying Counterclaim / Response form)** |
| This claim is for (tick all boxes that apply):   |  |  | | --- | --- | | 🞏 Wages | $ | | 🞏 Leave entitlements | $ | | 🞏 Penalty rates | $ | | 🞏 Allowances | $ | | 🞏 Payment in lieu of notice of termination of employment | $ | | 🞏 Redundancy pay | $ | | 🞏 Unauthorised deduction from wages | $ | | 🞏 Superannuation | $ | | 🞏 Other (please specify) | $ | | Total of all breaches: | $ | |
| **DETAILS OF BREACH/ES** |
| Describe the circumstances of each breach listed above in detail, including the relevant dates and method of calculation of amounts claimed *(attach further sheets if you require more space)*. |
| **ORDERS SOUGHT BY EMPLOYEE / OTHER** |
| The employee / other seeks orders that the employer / other:  🞏 Pay monies in the sum of $ and/or  🞏 Pay damages in the sum of $ and/or    🞏 Pay compensation in the sum of $ and/or  🞏 Do something else *(please specify)* |

**Signature of the employee / other or representative:**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Signed by(print name) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

🞏 the claimant

🞏 authorised representative of the claimant

**Date: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_**