

# "Go away money" still proving popular

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The recently released annual report for the Fair Work Commission shows that “go away money” is still proving popular for matters before the Commission.

According to the Commission’s report, 71% of all general protections claims involving dismissal were resolved during conciliation. Of these matters, 63% included a monetary payment with 60% settled for amounts of less than \$6,000 and 82% settled for less than \$15,000.

One interesting development has been the number of general protections matters which settled for more than \$50,000. Data included in the report shows that 49 claims involving dismissal settled for more than \$50,000 and 13 claims settled for more than \$100,000. This is no doubt reflective of employer concerns to settle general protections claims early to avoid the risk of uncapped compensation and civil penalties (plus substantial legal costs which are usually not recoverable) if the case goes to court.

A similar pattern was reported for unfair dismissal applications with 79% of claims resolved at the conciliation stage. Of these, 63% of conciliation settlements resulted in both payment of money and non-monetary terms. Only 15% of claims were settled with non-monetary terms and a miniscule 0.7% resulted in reinstatement.

Although the number of applications was slightly down on previous years, the settlement amounts paid were consistent with previous years. Where payment formed part of a settlement at conciliation, the amount was less than \$4,000 in 30% of cases and it was less than \$8,000 in 60% of cases. These statistics continue a trend in recent years in which employers’ willingness to settle claims early may be motivated by a commercial decision to avoid the time and expense associated with defending a claim, irrespective of its perceived merit.

Of those matters that were determined at a hearing, 40% found that the dismissal was fair and 60% that the dismissal was unfair. Reinstatement was the preferred remedy in only 15% of those matters involving an unfair dismissal, with compensation awarded in 69% of cases. Where compensation was awarded, 36% of applicants were awarded less than \$6,000, 55% were awarded less than \$10,000 and 70% were awarded less than \$15,000.

The Commission is Australia's national workplace relations tribunal and performs a range of functions including responsibility for dealing with unfair dismissal and (in the early stages) general protections applications.

If you would like expert advice or assistance with an unfair dismissal or general protections matter, please contact our [Industrial Relations and Employment Law](#) team.

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