

*Your responses suggest that you have not completed the minimum employment period for an unfair dismissal claim. Please check this. However, the law of General Protection may be applicable in your circumstances.*

(Fair Work Act 2009)

### **385 What is an unfair dismissal**

A person has been *unfairly dismissed* if the FWC is satisfied that:

- (a) the person has been dismissed; and
- (b) the dismissal was harsh, unjust or unreasonable; and
- (c) the dismissal was not consistent with the Small Business Fair Dismissal Code; and
- (d) the dismissal was not a case of genuine redundancy.

### **382 When a person is protected from unfair dismissal**

A person is *protected from unfair dismissal* at a time if, at that time:

- (a) the person is an employee who has completed a period of employment with his or her employer of at least the minimum employment period; and
- (b) one or more of the following apply:
  - (i) a modern award covers the person;
  - (ii) an enterprise agreement applies to the person in relation to the employment;
  - (iii) the sum of the person's annual rate of earnings, and such other amounts (if any) worked out in relation to the person in accordance with the regulations, is less than the high income threshold.

### **383 Meaning of *minimum employment period***

The *minimum employment period* is:

- (a) if the employer is not a small business employer—6 months ending at the earlier of the following times:
  - (i) the time when the person is given notice of the dismissal;
  - (ii) immediately before the dismissal; or
- (b) if the employer is a small business employer—one year ending at that time.