

When does non payment become Debt Recovery?

I know that sounds like a weird question and it doesn't even seem to make sense. Isn't 'non payment' and 'debt recovery' kinda the same thing?

In fact they are very different. It is that difference that explains why trade contractors wait until the verge of bankruptcy before trying to recover their money.

Here's the difference I'm talking about.

'Non payment' is the phase where you haven't been paid for a lot of work, but you still think you will eventually get paid because your client really, really wants to pay you.. 'Debt Recovery' is the phase after that, where you've finally realised that you're client actually has no intention of paying at all.

Non payment and Debt Recovery break down into 4 phases.

Phase 1: Tolerance – *'The client just needs a bit of slack, he'll pay me next week'.*

Phase 2: Pity – *'The client is being screwed by the developer/principal. Poor bloke. I'll keep working to help him out. He really wants to pay me and I'll get paid eventually'.*

Phase 3: Anger – *'I've been working for nothing for three months. I've run out of cash. I'm really tight. I'm going to call him every day asking about my money. I'm going to email him three times a week, and I'm going to send him some nasty letters.'*

Phase 4: Debt Recovery – *'My client is not returning my calls, emails, or letters. He's threatening me with Liquidated Damages if I stop working. If he thinks I'm just going to wait around while I go bust he can think again. I'm starting action to get my money'.*

Is this sounding familiar?

Now there's no problem if you can move through each phase real quick and then start debt recovery....but what do I see time and time again? A contractor has spent 5 weeks in phase one, three weeks in phase two, and up to six months in phase three!!

By the time they come to me they are punch drunk, furious, and stressed.

The reason the contractor has reached this stage is due to a lack of understanding of THE key fact that gets forgotten..... the contract!! If you case your mind back to that long, long time ago in a galaxy far, far away, around the time you accepted the contract you'll recall that there was something in there about you getting paid every month. Remember that? You might even remember the bit about payment being due at a certain time after submission of the progress claim/invoice.

Now let's say your claim is due on the 25th of the month, and payment is due on the 30th of the following month (the due date for payment). So you send in your claim on the 25th of say March. Payment is due on April 30th. Let's ignore the fact that your client will cut a huge chunk off your claim (That's a whole other article!), in theory you are due the approved amount on April 30th. But now its May 7th and still no money.

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At this point most contractors will enter Phase One and so on.

Now listen right now because I'm going to shock you..... if you don't get paid on the due date...that's the ball game. You are not getting your money or at least not all of it, until you take action. Do you get it? The belief that you will eventually get paid is a mirage. You are not getting paid. .

Now you have the choice of accepting that reality now, or waiting 6 months until you are broke. Which is it going to be?

You need to remember that the due date for payment under the contract is the deal you made with your client. The deal he offered you in his contract. Or the deal he accepted when he accepted your quote. Enforce that part of the deal.

Bad Payers all suffer from the same delusion that payment can be made in a manner entirely at their convenience. The amount paid, and the time paid is whatever they think it should be. Pathetic though this is, many contractors encourage this behaviour because they accept it.

When the client doesn't pay, or pays in dribs and drabs, don't let it go. Challenge it by noting the terms of the contract. And take action once the due date for payment has expired. Isn't it better to confront the situation when your \$20K in the hole rather than \$160K? Of course!

So think about this new dynamic and make the move from non payment to debt recovery fast. If your client isn't paying you its because he doesn't want to, he has no plans to, and he probably doesn't think he needs to.

The only person who can change that thinking is you. Once it's a debt, don't wait..... recover it.