

The problem with Part Payments

Most of you would wonder what could possibly be a problem with getting some money. Even if it's not all you have claimed, surely it's better than nothing.

Yes it is better than nothing, but it can cost you more than what you've been paid.

Consider this scenario that is very common in contracting; Steve is a roofer and has been doing a number of jobs for the one client simultaneously. Let's call the client 'Velvet Constructions' and each job as Job A, Job B, and Job C. Each job has been separately quoted, and has its own Purchase Order.

Each month Steve is issuing invoices for the work done on each job. That is, each job has its own Tax Invoice. But Velvet Constructions is not paying each month. Instead every now and then Velvet send Steve a 'random' payment of \$30 000, then some time later he might get \$25 000 and so on.

What's happening here? What is happening is that while you are managing each job separately and as a separate contract, your client has decided to treat you as a 'single account'. I bet the contract doesn't allow that.

Now even though accepting these payments is good news, (you get cashflow) it carries with it a number of threats that you must be aware of. Let's take a look at the problems, and then the solution.

You're setting a bad expectation

If you quietly accept these random part payments without a word you are telling your client that he can dictate how and when you are to be paid regardless of what the contract says. And that is the thin end of the wedge. Now he will see what else he can get away with. I suggest zero tolerance; the contract states when you are to issue invoices and when your client needs to be paying them. Further, your client must pay the invoiced amount for each job. Not some undefined lump sum. Don't let this rot set in. It will only get worse.

You cannot reconcile your accounts

Let's say that roofer Steve has seven invoices outstanding for a total of \$67 892.56 across Jobs A, B, and C. A payment of \$20 000.00 is received. Where does it go? Your whole bookkeeping regime is in a mess. How do you do your GST and BAS? How do you know how each job is going financially?

The fact is your client is assuming that he has the right to cause this type of havoc without being pulled up on it. If he doesn't get it then you might want to start invoicing him for the materials on Job A and then install them on Job C. Then charge the variations on Job B to Job A. See what that does for his administration of the projects. He would not let you do that, so don't you let it happen to you.

In a Security of Payment adjudication, a Part Payment allows your client to reduce your Claimed Amount.

This is perhaps the biggest threat. This is how it works. As above, lets says our roofer Steve has seven invoices outstanding for a total of \$67 892.56 as follows:

Job A: \$32 000.00
Job B: \$23 450.00
Job C: \$12 442.56

Velvet Constructions pays him a part payment of \$25 000.00. Steve puts that payment against the two invoices outstanding against Job A. So Steve's accounts now look like this:

Job A: Still owing \$7 000.00

Job B: \$23 450.00

Job C: \$12 442.56

Steve serves Velvet with a Payment Claim under the Security of Payment Act for the \$23 450.00 owed on Job B. Velvet sends him a Payment Schedule stating that they do not owe him anything as they already paid him \$25 000 for that job. Velvet provides a copy of the cheque and bank statement as proof. Steve argues that he put that money against Job A. Velvet said they meant for that money to go to Job B only.

Furious, Steve serves Velvet with a Payment Claim for \$32 000 for Job A. Velvet states in its Payment Schedule that they do not owe \$32 000. They only owe \$7 000 because they have already paid \$25 000 for Job A.

You see what's happening here? Because that payment of \$25 000 does not have 'a home' it leaves it open for Velvet to move it around to whichever Job suits it at the time.

I once did 5 claims across 5 jobs for a plumber against a builder who had made a part payment of \$20 000 and tried to apply that payment to each of the 5 jobs. That is the builder tried to get \$100 000 credit for a \$20 000 payment.

This is why you need to stop the rot early and make sure every payment is nailed to the right job.

A Part payment can be argued as full and final after an 'agreement'

Many times I have seen a client argue in an adjudication that the only reason a lump sum part payment was made was because the parties 'agreed' on that figure as full and final settlement. Of course the contractor argues that this is a lie, but the only record is that the payment was made and accepted.

So what do you do with a Part Payment that has not been directed to any of your invoices? Here's a 2 Step plan;

1. Oldest invoices first: Apply the payment starting with the oldest invoices first. Often clients tend to think that really old invoices are no longer in play. They don't matter. Dispel that notion straight away. After doing this, some invoices will be fully settled while others will be part paid.

2. Document it to your client: Fax your client a detailed description of what you have done with their part payment.

Note the date you received the part payment, how much it was, and how it was received (Cheque, EFT etc)

Set out which invoices the payment has been applied to, and which Job. Attach copies.

Note which invoices remain only part-paid, and which are still totally unpaid. Attach copies.

Request that in future all payments fully reconcile against issued invoiced amounts only.

Fax all the above to your client and keep the fax transmission report so you have evidence that this was sent and when it was sent.

OK. Now you're covered. If you look at the problem scenarios above, you will see that this plan of action addresses each one successfully.

So now when you get a part payment, instead of sighing in relief you should take a good long hard look at how to handle it. It is cash, but it could also be a curse.