

# Why a picture is worth a \$100 000.00

There is that old saying that a picture is worth a thousand words. Well in the building and construction game, a good picture can be worth much, much more.

So often when conducting payment claims for clients I come across situations where a good picture would have easily prevented a contractor from facing a payment dispute. Without it the argument becomes a case of the contractor's word against the client's.

The funny thing is that these days it has never been easier to take a photo. Digital technology makes every shot a winner and it is easily stored, and easily developed. Even more convenient is the fact that mobile phones all have cameras on them. Sometimes you need to do less talking and more picture-taking.

A series of photos is excellent evidence in a payment dispute and can protect the value of your work from unsubstantiated allegations of defects, back-charges, and incomplete work. If you are religious about taking photos you can put yourself in a position where the client has no evidence but you do. Further, your photos will block or defeat your client's allegations. Often the client will back down once the quality of your evidence is exposed.

## When and what do I photograph?

The basic answer to that is to take a few every day to demonstrate the progress of the work. Taking photos of milestones are a good idea. That is, whenever a key phase is completed take a photo of it. This could be anything from the installation of a switchboard to a completed trench to a section of roofing. You know what I'm getting at. By the end of your job you will have a picture story of the work. Now the trick here is to closely review your scope of works from the contract. Make sure you photograph everything on that scope. That way you can prove you did all the work required under the contract.

Also, think about what you are shooting, and take wide, medium, and close-up shots. Imagine these photos had to be presented in court, and choose your subject accordingly. For example if you were doing roof work you might take a wide shot of the roofed area, some medium shots of pointing and guttering, and then some close-ups of the tiles, box-gutter, and edging. This would capture the quality of the workmanship.

## Remember, the value of photos is retrospective

Because so many payment disputes occur after or near the end of the work, the value of photographic evidence is realized long after they have been taken. That's why I advise you to take photos every single day. In 6 months time they will be very important when your client accuses you of running cables in the wrong area, or digging a defective trench or using the wrong piping.

So in the first instance you are taking photos where there is no dispute on the horizon. Most payment disputes do not erupt straight away. It will start with a comment about something not being quite right. Or maybe something isn't working properly and so on. Start taking photos of the work and installations that your client is complaining about. By all means attend to the problem and fix it, but have a record of how it was when you found it, and how it was when you'd finished with it. Now your client has nowhere to go.

One of my clients was accused of damaging an installed piece of fire equipment on a building site. He couldn't get his last payment. But he had taken lots of photos. He could prove that when he had completed his work, the item in question was not damaged. There was a photo of it in perfect condition. Some photos from a later period showed the item bent and buckled, and it was obvious that a later trade had caused the damage. The matter went to adjudication but the photographic evidence was so compelling that the client paid up without too much argument.

Let's look at the main uses of good photos.

### **1. Combating allegations of defective work**

As per the example above, this is the most common use of photos. The key thing here is to have good close-ups of the detail of your work. These are excellent at combating accusations that the work was no good. The client will assume that you don't have this kind of evidence, and will also assume that if the area has been built-out, that you could not produce any to defend your position.

Photos are great at killing that tactic.

### **2. Blocking unsubstantiated back-charges**

Commonly at the end of the work, when the contractor is trying to get that final payment, the client will produce a raft of back-charges detailing a long list of damage and havoc for which the contractor is supposedly responsible. Many of these will date back to the beginning of the project, and of course had never been brought to anyone's attention until now.

But if you have a series of photos that show the progress of the work, then you can demonstrate that no such damage occurred and you can challenge the client to produce evidence of his own to support his accusations.

If you have taken some good close-up and detailed shots of the work, then (assuming there was no damage on completion) it will be impossible to argue that there was damage or that it was your fault.

One of my clients was accused of destroying a section of kerb with his truck and the head contractor was attempting to back-charge the contractor for its repair: but the head-contractor could not prove that the damage had even occurred and so this tactic failed.

### **3. Proof of work done**

This is the easiest thing to do because if you have taken photos everyday, you should be able to show all the work was completed as per the contract. It is very common for clients to withhold payment by alleging that the contractor has not completed the work. The client will usually be very specific about what was not done. But if you have your photos in place, this strategy will fail.

Remember that photos are only a part of wider strategy you can use to protect the value of your work. Those of you who have read my previous articles will know the importance of a good Site Diary, Variation Instructions, and documentation generally. A good series of photos will add huge firepower to your claim for payment.

When it comes to a fight for payment your client will write a thousand words as to why you don't deserve to be paid. But one picture will be worth more than those thousand words, and may even be worth a hundred thousand dollars!