

# Why Clients don't Pay

Why do so many contractors suffer non-payment episodes frequently and must struggle to get what's owed to them?

To a great degree it is a cultural problem that developed over many decades. Until the implementation of the Security of Payment Act, contractors had virtually no leverage, or bargaining power with which to extract payments from head contractors or principals. The cost and time required for legal action made it virtually impossible, and the industry used this to its advantage leaving contractors broke or struggling with lack of cash-flow. Simply put, you could get away with not paying.

Realise this: The decision not to pay you is made at the very first interaction. There your client is already deciding whether or not you are going to get paid. Remember, a client will withhold payment from a contractor whom he fears the least. Now go back and read that sentence again so it sinks in.

The causes of non-payment mostly lie with you, the contractor. This is good news. It means that the remedy is also up to you. You can control many of these causes, and reduce or eliminate them.

There are 3 key reasons why contractors do not get paid. Each one could be expanded on at length but here's the guts of it.

1. Unable to prove anything in relation to your work
2. Your client knows the contract better than you do
3. Unable to counter unjustified defects and back-charges

Let's take a closer look.

## Unable to prove anything in relation to your work

Clients will notice that you don't writing anything down. What about site meetings? Do you take notes? Do you get finicky about paperwork, contracts, variation approvals, changes to scope? Do you keep a site diary?

All these documents become 'contemporaneous evidence' and can act to prove what was agreed to, and the related terms, price, and scope. Sadly most contractors do not write things down, and do not keep good records. Most contractors hate paperwork because it is seen as bureaucratic red tape. This is not the case. Paperwork is bloody fantastic. Nothing stops non-payment in its tracks faster, harder, and more ruthlessly than well kept crystal clear paperwork.

## Your client knows the contract better than you do

The strategy used by non-payers is generally the same; they will keep you working even though you may be in breach of the contract in some areas. These are often on minor administrative points on which the client places no importance throughout the project. However when it comes to payment time the client refuses to pay, raising a series of alleged contractual breaches that had never been mentioned or raised before.

This happens because the contractor has not read and understood the contract. Contracts are not written

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in some mysterious language known only to a chosen few. They are written in English. Read them. Too many contractors just check that the price on the contract matches the quote. That is a perfect way to set yourself up for non-payment.

## Unable to counter unjustified defects and back-charges

Most contractors do not record the quality of the work as it progresses. This leaves the door open for clients to make allegations of defective work at the very end. By then the area may have been built out or the job completed. This makes it impossible for the contractor to have an independent inspection done while the work is in progress.

Often the contractor will offer to return to inspect and fix any defects so that payment will be made. But of course the client will do the standard thing and get someone else to do the work for three times the price and then try to back-charge the contractor for the inflated amount.

If you can't record and document all quality issues of your work in progress then that creates a non-payment opportunity.

These 3 reasons explain why so many contractors do not get paid. Have a close look at your operation and address those areas immediately. For a plan of action, simply reverse each reason.

1. Document everything so you can prove anything in relation to your work
2. Know the contract better than your client does
3. Conduct regular 'in progress' inspections to counter unjustified allegations of defects and back-charges

Now go get your house in order for this month's progress claim!