

Contractor Doctor: Can the firm that bought my client refuse to approve timesheets?

Dear Contractor Doctor,

I am a limited company contractor based at my client's site and working via an agency on a contract that pays weekly and has so far lasted for three years. Contracts have traditionally been renewed every six months, with the paperwork taking a couple of weeks to catch up and be approved, and I have always carried on working during this period. Recently another firm bought my client, and my contract came up for renewal a month ago, yet I am still waiting. My client project manager wants and expects the contract to be approved, and has kept me working on the basis it will be approved as before.

However, timesheets don't get signed until approval is given by the acquiring company that bought my client. This has been withheld, the agency won't pay without a signed timesheet and I have been advised by the human resources department that I am 'working at risk'. I don't want to 'play hardball' to get my timesheets signed in case it jeopardises renewal of my contract.

Can the firm that bought my client refuse to approve timesheets so I can't be paid?

Thanks

Chris

Contractor Doctor says:

Contractors suffering from the fall-out caused by mergers and acquisitions is an increasingly common scenario facing Roger Sinclair of contractor law firm [Egos](#). And he warns contractors not to make any assumptions about their 'new' client or to take any risks, such as working without a valid contract.

"To continue working for four weeks without a valid contract is risky for the contractor," say Sinclair. "To continue doing so having been warned by the client's human resources function that he is 'working at risk' is doubly so. In this situation, the contractor must weigh up the risks of not being paid at all for the four weeks he has worked versus the chances that the contract may be approved."

'Working at risk' undermines position

As Sinclair explains, because the contractor's client project manager is allowing and encouraging him to work, this should place the contractor in a very strong position. He explains: "Under normal circumstances, if no new contract has been sent and the original contract has expired and the client allows the contractor to keep working, then the contractor should be entitled to payment according to the contract previously in force."

However, these are not 'normal circumstances', because the client's human resources department has issued the warning that the contractor is 'working at risk'. Sinclair says this may undermine the contractor's position, with the result that the client may be able to argue that it should not be obliged to pay the contractor from the date that the 'at risk' warning was given.

"If not for the fact that the contractor has been warned he is at risk, there should be a clear entitlement for the contractor to be paid on the basis of the previous contract," says Sinclair. "However, I would have to question why the contractor is still working there after having received this warning."

Agency 'Conduct Regulations'

So what about the weeks of unpaid work? Sinclair says that, as the contractor is working through an agency, if he has not opted out of the Conduct Regulations ([Conduct of Employment Agencies and Employment Business Regulations 2003](#)), then the agency should pay.

"An agency can't lawfully not pay a contractor for the time worked if the contractor has not opted out of the Conduct Regulations," explains Sinclair. "However, the contractor may have a fight on their hands to force the agency to pay, particularly if timesheets have not been authorised and the agency therefore can't invoice the client."

Be firm with the client

Sinclair's concern is that the contractor is continuing to work on the client's project and has not been making any demands or forcing the issue of unpaid time and contract delays. "So why should the client prioritise the contractor's requests?" he asks.

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"The contractor needs to sit down with the client and state that if the client expects him to work, the contractor expects a contract, so that he can be assured of payment," urges Sinclair. The agency should be willing and able to help with this – but if the contractor lets the situation drift, then there will be no urgency on the client to resolve the situation to the contractor's satisfaction."

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Roger Sinclair, Egos

Sinclair concludes: "I would recommend that the contractor sends the client the message that 'I've given you a month to take action, and if you wish me to continue working, then you need to address my payment and contractual problems – right now!'"

Good luck with your contracting!

Contractor Doctor


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