

Contractor doctor: can I sue the agent for failing to give notice?

Dear Contractor Doctor,

I signed a contract for a five-month stint on an IT help desk. The contract states that the agency must give me two weeks notice in writing before termination.

Instead, my agency gave me three working days notice verbally.

But because my agency breached my contract, I decided not to attend work for the remainder. My contact at the agency is now withholding my wages and refusing to give any information, apart from saying that I have breached my contract.

Could you give me some advice on this please?

Kind regards,

Maria

Contractor Doctor says:

Well, in a way, you're both right. You both breached the contract: you, by staying out of work, and the agency by not giving proper notice.

That fact doesn't help either of you. It is a pity that you chose to breach the contract, because it detracts from what would otherwise be a very sure legal position.

We reviewed your contract, and it shows that you can be terminated without notice if you wilfully violate the agreement. So the agency could argue that you did so by staying out. This means that your breach of contract affects your ability to claim for the full notice period. Otherwise you could have demanded full pay for the entire notice period.

With all that said, the agency could at best claim any costs incurred for the period you were out, meaning whatever commission they would have earned on your work during that time. That's not much money.

You, on the other hand, have assured us that you have signed timesheets covering every hour you worked. You have every right to payment for all that time regardless of all the issues raised by the breaches on both sides.

When you perform work in the framework of a given contract you have to be paid. You of course don't have a right to payment for the time you did not work.

Write to your agency and tell them that-- this should be a formal "[letter before action](#)." If they still won't pay up, try [MoneyClaim Online](#) to get quick legal action if the sum involved is less than £5000. If it's more you need a solicitor.

Good luck with it!

Contractor Doctor

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