

Contractor Doctor: Can I legally challenge early termination by my client?

Dear Contractor Doctor,

I am an IT contractor working through an umbrella company and an agency for an end-user client. I received a phone call from my agency on my day off telling me the client has terminated my contract early, with immediate effect.

I checked the contract between my umbrella company and the agency. It has a clause saying the agreement can be terminated without notice in the event of: "...the Client terminating or cancelling the arrangement set out in the Schedule hereto for any reason". But the schedule says 'Termination Notice: Client - ... 4 weeks notice', which suggests to me that the above clause in the contract itself cannot be legally valid.

Can I legally challenge this early termination of my contract by the client?

Thanks

Andy

Contractor Doctor says:

"The parties to a contract can create any agreement they please," explains Roger Sinclair of contractor law firm [Egos](#). "The courts will only intervene if the agreement contravenes the law, or to resolve an ambiguity. On the face of it, the termination clause in the body of this contract is not itself ambiguous, and is indeed found frequently in many contracts of this type.

"The time for the contractor to challenge clauses of this kind is before signing the contract," continues Sinclair. "If the contractor is unable to negotiate the clause out of the contract, they then have to make a judgement call and decide whether to accept the clause or walk away from the contract."

This highlights the need for contractors who have doubts or uncertainties to check contracts carefully before agreement and signature. It also shows that they should have the contract reviewed by a legal expert who is knowledgeable about contract law and contracting. The small up-front fee can pay huge dividends if the contract goes wrong.

Contract discrepancy

However, according to Sinclair, the discrepancy between the clause in the body of the contract, which allows instant termination with no notice, and the notice periods clearly stated in the contract schedule, might leave an opening for the contractor to take action.

"When there is a dispute over a contract, the judge has to divine what the parties actually intended, at the time the contract was formed, by looking at the document," says Sinclair. "The clause identified by the contractor contradicts a further clause in the contract that says, 'The Agreement may be terminated at any time by either party giving to the other in writing the period of notice shown in the Schedule', and the schedule specifies that termination by the Client requires four weeks notice. The Schedule also contains a provision which suggests that, where there is conflict between the Schedule and the body of the contract, the Schedule has priority."

But, although the contractor has an argument to say that they should be paid for a four-week notice period, on the basis that the termination was driven by the client, it remains the case that the client was not a party to the agreement in question. Considering this, Sinclair warns that the case is not 'open and shut'.

No obligation to take action

"Another barrier to a successful action by the contractor here is that the [contractor's umbrella company](#) - which is the party to the contract - owes no obligation to the contractor to take any action," continues Sinclair. "In fact, the umbrella company may be in receipt of benefits from the agency, such as client referrals, which might be a disincentive to act."

“ When there is a dispute over a contract, the judge has to divine what the parties actually intended, at the time the contract was formed, by looking at the document ”

Roger Sinclair, Egos

Sinclair's advice to contractors finding themselves in this scenario is to seek legal advice, as every situation will be different. In some cases, contractors may have a greater chance of mounting a successful challenge, provided they have the support of their umbrella company. "If the contractor talks to the umbrella company," concludes Sinclair, "they might be able to persuade the umbrella company to take some action on the contractor's behalf."

Good luck with your contracting!

Contractor Doctor

Published: Wednesday, February 24, 2010

[Tweet](#)

© 2011 All rights reserved. Reproduction in whole or in part without permission is prohibited. Please see our [copyright notice](#). If you want to use any content you have seen on this site then please [request our media pack](#) and ask for details of our Content Licencing Service.

Readers Comments...



Be the first to comment on this article

Also of interest...

Related Guides:

- [Contractors should take care with verbal agreements](#)
- [How contractors should handle being terminated](#)

Related Calculators:

- [Contracting To Permanent Calculator](#)
- [Contract Comparison Calculator](#)

Related Internet Links:

- [Roger Sinclair](#)



ABCe verified website - last audit confirmed **130,682 monthly unique visitors**

© Copyright 2011 Byte-Vision Limited UK. All rights reserved [Copyright notice](#)