

What Happens When Someone is in Breach of a Legal Contract?

Parties enter into a legal contract to have terms laid out as to the proper fulfillment of the contract. In other words, when people make a business deal, there's every expectation that both sides stick to their end of the bargain. This applies to handshake deals, verbal contracts, IT contracts — you name it. As the saying goes, "A contract is a contract is a contract." People make contracts to ensure that things get done.

Of course, it's not the only benefit of a legal contract. When many people think of contracts, they think of measures put in place just in case things go wrong. However, another way of looking at it is that a good contract created in good faith and meeting the concerns of all parties involved, creates an atmosphere to ensure that things go right. If both parties have agreed beforehand on what needs to be done, and have put it in writing, it creates some degree of trust and some insurance that a business arrangement will go through as planned.

As well intentioned as any legal contract is, however, things don't always work out as planned. Although sitting down with another party to hammer out terms is usually a good sign, often a breach of contract won't necessarily even be the fault of one of the parties. Funds can unexpectedly run out. Third parties might not deliver needed goods or services. Bad weather might delay the delivery of the final good or product.

So, a good contract doesn't only serve to ensure that parties will try to deliver their end of the bargain; it tries to anticipate unforeseen events that will lead to breaches that don't even involve bad intentions by either side. Like they say, "stuff happens". This goes for buyer and seller contracts, IT contracts, or any other legal contract under the sun.

There are essentially three things that can happen if a party is considered to be in breach of contract.

The first is that the breach is acknowledged by both sides, and that the parties themselves agree to terms in order to resolve the breach. This, of course, is a bit of a precarious scenario. If two parties worked hard to establish a legal contract in the first place, then there ought to exist terms within the contract itself as to what remedy there is to a breach of any kind.

This leads to the second option when breach of contract occurs. Even if not laid out in the terms of the contract, the parties can agree to some form of third party intervention, which involves either mediation or arbitration. With mediation, a mediator works with both parties to bring them together to agree on mutually acceptable terms. With arbitration, the arbitrator listens to both sides, then usually rules for one side or another. In other words, both parties state what they want for a resolution, and the arbitrator will choose one. It's the legal version of a winner-takes-all scenario.

The third option when a breach occurs is, of course, the legal system. Part of the purpose of a good contract is to avoid such a circumstance. However, these issues can sometimes be complex, unforeseen developments might be at play, and no contract can cover all bases for all possibilities — just as no law can cover all bases for all possibilities, too. It's why sometimes judges, in effect, have to make the law to fit into a hard case. They say hard cases make bad law.

Well, if you're in the business of making a good legal contract, even good IT contracts, then hopefully there won't be the need for the law at all. In the end, that's why you try to make good contracts and abide by their stipulations. It's only when bad luck prevails that you should have to worry, and even then the courts should be seen as a last resort, — not a first resort.

About the Author

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