

Business questions

Expert advice

Unwired by cowboy sparks

I am the owner-manager of a commercial property business in the South East. Last year I embarked on a major refurbishment of one of our office units, with a loan from the bank. Unfortunately, our contractors seem to have employed a team of cowboy electricians who made several major errors in the rewiring. The contractors have since gone bankrupt and I am very concerned that I do not have any recourse against the electricians. Can you advise?

In the current financial climate we have been advising many businesses in similar situations. First it is necessary to determine whether the rewiring issues are due to defective design, or to construction. If it is the

former you may be able to claim against the design consultant. If the contractor was responsible for both design and construction, or the issues were caused by defective construction, you will first need to consider a claim against the contractor's administrators for breach of contract. Professional indemnity insurance may cover this but, if not, you are unlikely to recover substantial sums.

Secondly you need to consider the electricians. They have probably been employed by the contractor under a subcontract order, but you are not a party to this contract. You would need to claim in negligence, which would prevent recovery for damage to the building itself. It is possible that the subcontract grants you third-party rights.

This would enable you to claim for breach under the subcontract.

The bank may have entered into a collateral warranty with the electricians. Funders in construction projects often insist on collateral warranties from subcontractors, giving them a contractual relationship with the subcontractors. If a collateral warranty exists, the bank could claim against the electricians for breach of contract but would need to show that it has suffered a loss that it needs to recover. Hopefully, having considered the above you can recover at least some of your losses.

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