

When is payment of my commission due and payable to me by my employer?

I am employed as a temporary employee and my employer is now withholding commission I am entitled to in terms of our verbal employment agreement.

Temporary employee:

An employment situation where an employee is expected to remain in a position for a certain period of time. Temporary employees may have the opportunity to achieve permanent employment status after the time period has lapsed. Temporary workers may also be referred to as seasonal employees or temps.

Permanent employee:

Permanent employees, regular employees or the directly employed work for an employer and are paid directly by that employer. In addition to their wages, they often receive benefits like subsidized health care, paid vacations, holidays, sick leave, or contributions to a retirement plan.

It is illegal in South Africa to hire workers in temporary employment for more than three months without justifiable reasons. Workers in temporary employment should be treated as permanent unless there is a justifiable reason.

Your contract takes first precedence. This is what was agreed upon. Signed or unsigned, this is the first evidence or proof of what was agreed upon. So, if your contract shows that they will pay once the customer pays, this is a hurdle for you more than it is a hurdle for your employer. In the end, this is a question of when the money is due and payable to you. Contractually, it seems that it would be when the money has been paid in.

Clearly, it would not be proper for the employer to hold back payment once it has been received. So, if you were to start legal action for your commission once the money has been paid, your chances of success is virtually guaranteed.