

## **The complaint**

Mr T complains that HSBC UK Bank Plc declined his claim under Section 75 of the Consumer Credit Act 1974.

## **What happened**

In March 2019 Mr T purchased a boiler using his HSBC credit card. The boiler came with a 10-year service plan and a 12 months installation warranty issued by the retailer.

In early 2020 Mr T experienced issues with the pressure and the thermostat. He tried to contact the retailer but was unable due to lockdown. Eventually he discovered that the retailer had gone out of business.

Mr T raised a chargeback claim with HSBC. HSBC said the claim was out of time. It also considered whether Mr T might have a claim under section 75 but said the grounds hadn't been made out.

Mr T wasn't happy with HSBC's response and complained to this service. He said the boiler had been supplied to him with a 10-year annual service with free repairs and the purchase price included not just the boiler but the service and the warranty. He said he hadn't received the services he'd paid for, and that to have the boiler serviced going forwards was going to cost him £100 per year.

Our investigator didn't uphold the complaint. He said there wasn't any evidence that there was a fault with the boiler, so it wasn't reasonable to conclude that the boiler wasn't of satisfactory quality at the point of supply. The investigator said he'd looked at the invoice for the service plan, but the cost charged for the service plan was zero, so there was nothing to ask HSBC to refund.

Mr T didn't agree. He said the cost of the service plan wasn't zero and suggested that the cost of the boiler was £800 plus installation, and that the balance of what he paid was for the servicing over 10 years and the warranty. Mr T said he hadn't received the servicing part of the contract he'd entered into.

## **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

### **Chargeback**

I can see that HSBC initially considered Mr T's claim under the chargeback provisions. The chargeback rules are set by the card providers and not by HSBC. The chargeback scheme is voluntary with no guarantee of success and there are strict time limits for making a claim. I can see that by the time Mr T asked HSBC to raise a chargeback, the time limits for making a chargeback claim had expired. This is because to use chargeback, it must be within 120 days of the purchase.

HSBC advised Mr T that his claim was out of time. Based on what I've seen, I don't think HSBC has rejected the chargeback claim unfairly.

## Section 75

I can see that HSBC also reviewed Mr T's complaint under section 75. In certain circumstances, section 75 gives a consumer an equal right to claim against the supplier of goods or the provider of credit. In order to rely on section 75, the consumer must show that there has been a breach of contract or a misrepresentation.

In order to uphold Mr T's complaint, I would need to be satisfied that there's been a breach of contract. The relevant law requires goods to be of satisfactory quality and fit for purpose and the point of supply. If Mr T can show that the boiler wasn't of satisfactory quality at the point of supply, then a breach of contract will be established.

Mr T has raised issues about the service plan and the warranty for the boiler. The invoice for the purchase of the boiler show that there was no cost for either of these items. There's no evidence that Mr T paid anything for these items so these can't be considered under section 75. I've taken account of what Mr T has said about the cost of the boiler and the cost of the other items, but this isn't evidenced by the invoice and Mr T hasn't provided any alternative evidence to substantiate what he says about this.

Mr T has also raised issues about the boiler itself – he said the pressure and thermostat were faulty. HSBC asked Mr T to provide an independent report and a quote for remedial work but I can't see that this was provided.

This service asked Mr T to provide evidence of the fault with the boiler, either photos, or a report from an engineer who examined the boiler. I can't see that anything has been provided.

In the absence of any evidence to show that there is a fault with the boiler, I'm unable to conclude that the boiler wasn't of satisfactory quality at the point of supply. It follows that I can't conclude that there's been a breach of contract.

Taking everything into account, I'm not asking HSBC to do anything here. There's no evidence that the service plan had a cost attributed to it, so even if I accept that the service plan is not going to be provided, I can't say that HSBC need to refund anything.

## **My final decision**

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 1 December 2021.

Emma Davy  
**Ombudsman**