

The complaint

Mrs J complains that Creation Consumer Finance Limited won't refund to her the money that she paid for a dishwasher.

What happened

Mrs J used a credit agreement with Creation Consumer Finance that she electronically signed in October 2020 to pay for some items, including a dishwasher. The price of the dishwasher was £217.55 and it was delivered in December 2020 but Mrs J says that when it was unpackaged in March 2021 the door was damaged. She complained to Creation Consumer Finance and it contacted the supplier which said that Mrs J raised the issues over three months after the delivery which was an unreasonable time frame to raise a delivery damage claim. Mrs J wasn't satisfied with its response so complained to this service.

Our investigator recommended that her complaint should be upheld. She thought that the evidence indicated that Mrs J was supplied with a dishwasher that was damaged and that a breach of contract had taken place due to the goods being of unsatisfactory quality when supplied. She recommended that Creation Consumer Finance should: refund the full cost of £217.55 and/or finance payments made towards it; refund all interest and associated charges charged on the item; pay interest on all finance payments made towards the item; and arrange and pay for collection of the dishwasher.

Creation Consumer Finance hasn't responded to our investigator's recommendations so this complaint has been passed to me for a decision.

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.

Having done so, I agree with our investigator that Mrs J's complaint should be upheld for these reasons:

- Mrs J paid for the dishwasher using a credit agreement with Creation Consumer Finance and in certain circumstances, section 75 of the Consumer Credit Act 1974 gives a consumer an equal right to claim against the supplier of goods or services or the provider of credit if there's been a breach of contract or misrepresentation by the supplier;
- to be able to uphold Mrs J's complaint about Creation Consumer Finance, I must be satisfied that there's been a breach of contract or misrepresentation by the supplier and that Creation Consumer Finance's response to her claim under section 75 wasn't fair or reasonable – but I'm not determining the outcome of Mrs J's claim under section 75 as only a court would be able to do that;
- Mrs J ordered the dishwasher in October 2020 and the price of it of £217.55 was added to her credit agreement with Creation Consumer Finance;

- the dishwasher was delivered in December 2020 and Mrs J says that she visually checked the packaging which showed no problems but didn't open the packaging at that time as her kitchen was being renovated - but when she removed the packaging in March 2021 the dishwasher door was damaged;
- Mrs J has provided photos showing the damage and she complained to Creation Consumer Finance but it said that the supplier had said that Mrs J had raised the issues over three months after the delivery which was an unreasonable time frame to raise a delivery damage claim;
- Mrs J says that she had to buy another dishwasher to complete her kitchen renovation;
- the photos clearly shows the partially unpackaged dishwasher and the damage to the door – and I consider it to be more likely than not that the dishwasher was damaged when it was delivered to Mrs J;
- Mrs J has explained why the dishwasher wasn't unpackaged soon after it was delivered and I'm not persuaded that it was unreasonable that she didn't notice the damage until she unpackaged the dishwasher in March 2021 or that there was an unreasonable delay in her delivery damage claim in these circumstances – and I've not been provided with any evidence to show that the damage was caused after the dishwasher was delivered to Mrs J;
- I consider that the damage to the dishwasher causes the dishwasher not to have been of satisfactory quality when it was delivered to Mrs J which would be a breach of contract by the supplier for which Creation Consumer Finance would be jointly liable under section 75; and
- I find that it would be fair and reasonable for Creation Consumer Finance to take the actions described below.

Putting things right

I find that Creation Consumer Finance should rework Mrs J's credit account as if the payment of £217.55 hadn't been made in October 2020. I find that it should also take the other actions described below, including arranging for the dishwasher to be collected from Mrs J at no cost to her.

My final decision

My decision is that I uphold Mrs J's complaint and I order Creation Consumer Finance Limited to:

1. Rework Mrs J's credit account as if the payment of £217.55 hadn't been made in October 2020, and - if that puts the account into credit - to pay interest at an annual rate of 8% simple on the credit balance for the periods that the account was in credit - it should also refund the credit balance to Mrs J.
2. If Mrs J has repaid the £217.55 (or any part of it) to Creation Consumer Finance but doesn't have a credit balance, to pay interest on the amount that she's repaid at an annual rate of 8% simple from the date of payment until the date of settlement.
3. Arrange for the dishwasher to be collected from Mrs J, at no cost to her.

HM Revenue & Customs requires Creation Consumer Finance to deduct tax from the interest payments referred to above. Creation Consumer Finance must give Mrs J a certificate showing how much tax it's deducted if she asks it for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J to accept or reject my decision before 21 April 2022.

Jarrold Hastings

Ombudsman