

The complaint

Ms P complains that Creation Consumer Finance Ltd has not properly addressed her claim under section 75 Consumer Credit Act 1974 in respect of a faulty wardrobe which was removed by the merchant.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. The facts are not in dispute so instead I'll focus on giving the reasons for my 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 the conclusions reached by the investigator for the following reasons:

This complaint has been submitted as a claim under section 75 of the Consumer Credit Act 1974. Section 75 offers protection to customers who use certain types of credit to make purchases of goods or services. Under section 75 the consumer has an equal right to claim against the provider of the credit or the retailer providing the goods or services, if there has been a misrepresentation or breach of contract on the supplier's part.

For section 75 to apply, the law effectively says that there has to be a:

- Debtor-creditor-supplier chain to an agreement *and*
- A clear breach of contract or misrepresentation by the supplier in the chain.

I am satisfied the debtor-creditor-supplier link is in place and I have to consider if there was breach of contract and if there is, what redress is appropriate.

It is agreed that the fitted wardrobe wasn't as ordered and the merchant removed it. Ms P has paid for goods which she does not have due to a failure by the merchant and so she is entitled to have that remedied. I do not consider it fair for her to pay for something which was removed by the merchant due to it not being as ordered.

I gather it has offered Ms P half the cost, but she has explained the one which was removed was more expensive than the other. The only information I have seen as to the cost is an invoice which shows a sum of £1,700 which is the figure offered to Ms P by the retailer. She has supplied a copy of the loan agreement which shows the cost of both wardrobes was £3,351.

Regrettably Creation have not fully engaged with this complaint and so I don't have the details I would normally expect to see. As such it seems only fair that Ms P receives a refund for the full cost of the faulty wardrobe which I presume to be in excess of £1,700..

I also agree with our investigator that she has incurred consequential losses in that the paintwork was damaged by the fitters removing the wardrobe. Ms P has evidenced this with photos. I consider Creation should meet the cost of repainting the room.

Ms P has also demonstrated that she had carpet fitted which stopped at the point of where the wardrobe stood. Now that it has been removed she is left with an unsightly gap. Our investigator agreed this needed to be remedied and said it might need a section being added or the whole carpet should be replaced. I take the view that given the delay caused by Creation it is unlikely that a repair could be effected that would properly match the original and so the carpet would need to be replaced.

This issue has been going on for almost two years and I consider Ms P is due compensation for the trouble and upset she has endured of £200.

Putting things right

Ms P should be compensated to the faulty wardrobe.

My final decision

Decision

My final decision is that I uphold this complaint and I direct Creation Consumer Finance Ltd to:

- Pay to Ms P the cost of the removed wardrobe,
- Pay her annual interest at 8% simple on this sum from the date(s) paid until the sum is repaid,
- Pay for the cost of repainting the room subject to receiving an invoice from Ms P,
- Pay for a replacement carpet of similar quality to the current one subject to receiving an invoice from Ms P,
- Pay her compensation of £200 for the trouble and upset she has been caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 6 April 2022.

Ivor Graham
Ombudsman