

The complaint

Mr D complains that Creation Consumer Finance Ltd made payment to a supplier before the work had been completed to his satisfaction.

What happened

In February 2021 Mr D placed an order for new windows and doors with a supplier and entered into a finance agreement with Creation. The cash price of the windows was £9,127. Mr D paid a deposit of £2000 and the balance was financed.

Installation was due to start in May 2021, but this was delayed. Mr D is unhappy because following installation, some of the windows don't fit properly and can't be opened/closed. Some of the windows are damaged and there are several other snagging issues.

Mr D raised these issues with the supplier. An inspection was carried out and the supplier agreed to fix the issues and complete the snagging works. However, this hasn't happened.

Mr D was unhappy when he found out that Creation had paid the supplier for the work despite the ongoing issues. He complained to Creation but wasn't provided with a final response within the relevant timescale, so he brought his complaint to this service.

Our investigator said that Mr D had a like claim against Creation under section 75 if there had been a breach of contract. The investigator said she was satisfied that there had been a breach of contract because the goods weren't of satisfactory quality and hadn't been fitted with reasonable care and skill. The investigator said that Creation should cancel the agreement and refund Mr D the deposit plus any payments made.

Creation responded and said it had spoken to the supplier, who has stated that it could complete the work and was willing to do so.

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.

In certain circumstances, section 75 gives a consumer a right to claim against a supplier of goods or a provider of credit if there's been a breach of contract or a misrepresentation.

In order to uphold Mr D's complaint, I would need to be satisfied that there's been a breach of contract or a misrepresentation. Mr D hasn't said that there's been a misrepresentation so I've focussed on whether there's been a breach of contract.

The relevant law says that goods must be of satisfactory quality and fit for purpose at the point of supply. It also says that services must be supplied with reasonable skill and care. If this isn't the case then a breach of contract can be said to have occurred.

I've looked at the available evidence including the photos provided by Mr D. I've taken into account Mr D's testimony. Neither Creation nor the supplier provided any evidence for this

service to consider.

During the course of the investigation by this service, the supplier contacted Mr D and said it would attend his property to rectify the issues on 23 March 2022. Mr D has said that he waited at home all day but no-one attended. Since then, Mr D has tried to contact the supplier but has had no reply.

Based on what I've seen, I'm satisfied that there's been a breach of contract. I say this because, looking at the photos, the windows and doors don't appear to be of satisfactory quality and the work doesn't appear to have been carried out with reasonable care and skill.

I'm also of the view that the supplier has been given a reasonable opportunity to rectify the issues and has failed to do so.

In the circumstances, Creation is responsible under section 75 for putting things right.

Putting things right

The relationship between Mr D and the supplier has broken down and I think the supplier has already had a reasonable opportunity to put things right but has failed to do so. Creation should cancel the agreement and refund the deposit together with all payments made.

My final decision

My final decision is that I uphold the complaint. Creation Consumer Finance Ltd must:

Cancel the agreement

Refund the deposit

Refund any payments made under the agreement

Pay 8% simple interest on all sums refunded from the date of payment to the date of settlement

Assist Mr D to make contact with the supplier to reject the windows and doors

Remove the agreement from Mr D's credit file

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 7 July 2022.

Emma Davy
Ombudsman