

The complaint

Mr S complains about the problems he had with the supply and fitting of a kitchen he financed with Ikano Bank AB (Publ). His complaint is brought against Ikano under section 75 of the Consumer Credit Act 1974 (CCA).

Mr S' wife brings the complaint on his behalf (for ease of reference I'll refer to her comments as Mr S').

What happened

In March 2020 Mr S took out a fixed sum loan with Ikano to fund the purchase and installation of a kitchen. The cash price was £6055.62, Mr S paid a £10 deposit and agreed to make 35 monthly instalments of £167.94. He says he experienced the following issues;

- He was charged for items returned and services he didn't receive
- the 30% discount offer on kitchen cupboards and the installation costs were not applied to reduce the price
- the worktops were not the ones ordered and need replacing. There is also a gap left between the housing unit and the wall and the worktops were not joined properly
- the account was unfairly defaulted and subsequently the agreement was terminated
- Ikano took too long to provide an outcome on the section 75 claim

Mr S was unable to resolve his concerns with the supplier, so he contacted Ikano in August 2020 to raise a section 75 dispute. It liaised with the supplier and in September 2021, it said the supplier had confirmed remedial works were completed and a credit of £714 for the returned items had now been applied to his account. It apologised for the time taken to provide an outcome, declined the section 75 claim and advised Mr S that his repayments would restart in October 2021.

Mr S complained to Ikano, he was unhappy that it hadn't upheld his claim. And said the supplier didn't send anyone back to remedy the installation issues. Mr S stopped making payments on his account and in December 2021 Ikano defaulted the account and later terminated the agreement. Ikano didn't uphold Mr S' complaint.

Mr S brought his complaint to our service. Our investigator looked into the complaint. He didn't think it was clear from the paperwork that Mr S had been charged for additional services not supplied. And he didn't think there was sufficient evidence of a breach of contract by the supplier, so didn't think Ikano had made a mistake when it defaulted and terminated Mr S' account.

Mr S disagreed; the case was passed to me for a final decision. We asked Mr S to provide photos of the outstanding installation issues, he provided some photos of the kitchen. We sent the photos to Ikano for comment, and I also let Ikano know that I thought it should pay Mr S £500 compensation to reflect the delay in handling his section 75 claim, it hasn't responded.

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.

I've read the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point or particular piece of evidence, it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome. And our rules allow me to do this, this reflects our informal, free service as an alternative to the courts.

Where the information I've got is incomplete, unclear or contradictory, as some of it is here, I have to base my decision on the balance of probabilities.

This case is about a fixed sum loan that Mr S took out with Ikano, which is a regulated agreement. So, I'm satisfied I can consider Mr S' complaint.

Mr S is very unhappy with the customer services received from the supplier and its lack of response. However, I'm unable to look at the level of service received from the supplier. In looking at this complaint, I'm considering Ikano's actions and whether it needs to do anything further to resolve Mr S' complaint.

I am required to determine this complaint on the basis of what I consider to be fair and reasonable in all the circumstances. When considering what is fair and reasonable, I'm required to take account of relevant law and regulations; regulator's rules, guidance and standards, and codes of practice; and, where appropriate, what I would consider to have been good industry practice at the relevant time.

The relevant legislation here is section 75 of the CCA, which provides protection for consumers for goods or services bought using credit. This provides protection for consumers for goods and services bought using credit. Under section 75, subject to certain criteria, consumers who use a fixed sum loan to pay for goods and services, have an equal claim against the finance provider, for any breach of contract or misrepresentation by the supplier. This means that Mr S can claim against Ikano – the creditor – for any misrepresentation or breach of contract by the supplier in the same way he could've claimed against the supplier. So, I've taken section 75 into account when deciding what is fair and reasonable.

Has Mr S been charged for goods and services he didn't receive?

Mr S says that he was refunded £714 for three items returned in July 2020. On the till receipt I can see Mr S was charged for two taps at £28 (total £56), microwave (£279) and an oven (£379). The total cost of the items is £714. So, I'm satisfied Mr S was correctly refunded for the returned goods.

Mr S says that he was charged for the following services which he didn't receive;

£100 electrical test certificate

£100 gas safety certificate

£108.33 for the installation of pipes/taps

£25 for fitting a dishwasher door, Mr S doesn't have a dishwasher.

Mr S has provided an installation price quote (order ending 300) which details the services to be completed, which includes the above services, the total quote is for £1980.59. However, Mr S has also provided a till receipt that shows Mr S was only charged £1386.42 for the kitchen installation, which matches the amount noted on the order installation (order ending

467), however neither the till receipt nor the order installation breakdown what installation services were being charged for. In addition, Mr S has provided a page of a document which was signed by the fitter in July 2020, which is marked with an "X" to indicate that no gas or electrical services were carried out.

So, whilst the quotation indicates Mr S was provided a quote for these services, this is an only an estimate and I note there is no reference to the installation quotation order number on the till receipt. In addition, the till receipt and order installation documents show Mr S was charged significantly less than the price indicated on the quote. So, I don't think Mr S has provided sufficient evidence to show he was charged for the additional services. And whilst I appreciate Mr S has been unable to get a copy of a breakdown for the billed installation services from the supplier, I can only consider the evidence provided. And based on what I've seen I'm not persuaded Mr S was charged for the additional services.

30% discount

Mr S says the sales agent offered 30% discount on the kitchen cupboards and the installation costs, but this wasn't applied. As I'm unable to confirm what Mr S was told about the discounts, I've looked at the available documentation.

The only reference to a discount is on the order quotation, which notes the discount is valid until *14 March 2019*, but Mr S placed his order in March 2020. Mr S says this must be a typo, but I've not seen any other evidence to support that a 30% discount should have been applied. In the circumstances I can't fairly say there was a misrepresentation by the supplier or a breach of contract with respect to the discount.

Worktop and installation issues

Under the Consumer Rights Act (CRA), there is an implied term written into contracts that goods supplied need to be of satisfactory quality, fit for purpose and as described. It also says traders must perform the service with reasonable care and skill.

Ikano says the supplier advised that it had returned to resolve the worktop issues. Mr S says only the issue with the sink worktop was resolved and the other issues were not remedied.

Mr S says he ordered worktops to be butt and scribed, but he was supplied with the wrong worktops, which meant he couldn't have the *butt and scribe joints* as he had ordered. Mr S has provided a copy of an email from the supplier which says, "*I am looking into your case regarding your worktops*", which he says confirms the issue with the worktops. Mr S says the fitter spoke to the supplier on the phone and they agreed to replace the worktops, but they didn't return to do this.

I've looked at all the documentation to see what was ordered, the only mention to the worktop finish is in the installation price quote which says, "*install worktop, standard butt joints only*". I've not seen any reference to Mr S ordering worktops that could be butt and scribed, or any confirmation from the supplier to confirm there was a mix up with the worktops, I can't fairly say there has been a breach of contract here. So, I don't have any grounds to ask Ikano to refund the cost of the worktops and cover the costs of installing new ones.

Mr S says that because the worktops had to be pushed together, rather than butt and scribed, will mean the joints will eventually *blow out*, due to water seepage near the sink, he doesn't think they are fit for purpose. But I don't think the problem is evident in the photos provided and Mr S hasn't provided any corroborating evidence to confirm the issue with the way the worktops are joined. So, I can't fairly say this amounts to a breach of contract.

Mr S says he has been left with an unsightly gap between the oven/microwave housing unit and the wall. And I can see from the photo provided there appears to be a small space between a unit and a wall, however from the image, it isn't entirely clear whether is due to the kitchen's dimensions or whether the space could have been avoided or filled by the fitters. So, based on what I've seen I don't think there is sufficient evidence that the gap was caused by a poor fitting service.

I appreciate that Mr S feels Ikano could have done more to get evidence from the supplier, but it isn't required to do this. The burden here is on Mr S to evidence his section 75 claim and having carefully considered all that he has said and produced, I'm not persuaded there is enough evidence available to sufficiently establish that there was a breach of contract or misrepresentation by the supplier. So, I don't think it would be reasonable for me, based on the current evidence to direct Ikano to pay for the cost of new worktops and pay for them to be installed.

Mr S may wish to arrange for an independent inspection of the kitchen, to confirm the installation issues and get a quote to carry out the repairs, for Ikano's consideration, but based on the current evidence he has provided in support of his claim I can't fairly say the kitchen isn't of satisfactory quality or that the installation service wasn't carried out with reasonable care.

Was it fair for Ikano to default and terminate the agreement?

Mr S feels IKano treated him unfairly when it defaulted his account and subsequently terminated his agreement. When Mr S contacted Ikano in August 2020 about the issues with the kitchen, it agreed to put his account on hold, whilst it looked into his section 75 claim. On 15 September 2021 Ikano wrote to Mr S to explain that it had declined his section 75 claim and noted that payments would restart in October 2021.

Unhappy with Ikano's response, Mr S complained to it and informed it that he wouldn't be making further payments, until the issues were resolved. He is unhappy that IKano refused to place his account back on hold. IKano had investigated Mr S' claim and provided a letter declining the section 75 claim. Whilst I appreciate that Mr S had raised a complaint about the outcome of his section 75 claim, there wasn't any obligation for Ikano to place the account on hold again.

The terms of Mr S' finance agreement with Ikano explain that;

"9. Default We may demand repayment of the full amount you owe us if ; you fail to pay on it's due date any amount payable under this agreement....."

The Information Commissioner's Office (ICO) provides guidelines on when defaults should be recorded. They say a default should be recorded when an account is three months or more in arrears. Mr S was three months in arrears when Ikano issued a default notice on 9 December 2021. A default notice is a statutory notice, required under the Consumer Credit Act 1974. Its purpose is to ensure consumers like Mr S is fully aware of the consequences of not making payments under the agreement. The notice informed Mr S that he was required to pay the full arrears of £503.82 and that if he failed to do this by 30 December 2021, it would terminate the agreement. Mr S didn't make the required payment to clear the arrears.

Mr S requested Ikano hold off defaulting the account on 21 December 2021. I appreciate Mr S feels Ikano shouldn't have progressed with defaulting the account, because he had requested it didn't, but there was no obligation on it to do this and as Mr S failed to comply with the default notice, I don't think it made a mistake when it defaulted the account.

Ikano subsequently terminated Mr S' agreement. I'm satisfied that it gave Mr S the required notice that it would terminate his account, he didn't make the required arrears payment, so he was in breach of the agreement, so I don't think it was unreasonable for Ikano to terminate Mr S' agreement.

Mr S also complains that he was sent a letter on 6 January 2022 which confirmed a default had been recorded on his credit file. The letter said he wouldn't receive any further statements or reminders for payment from Ikano, but the account may be sold to a debt purchaser who would pursue the debt. However, on 9 January 2022 he received a notice of a missed payment fee. I can understand why the timing of the letters may have caused Mr S some confusion, but I'm satisfied Ikano were required to send notice of the missed payment fee for the previous month, which would have been sent automatically.

Mr S has indicated that he is currently facing some financial difficulties, I'd expect Ikano to consider his current financial situation and treat him with appropriate forbearance when considering an affordable payment plan to clear any amounts outstanding under the agreement. I think this is fair and won't be asking it to do anymore, with respect to this part of the complaint.

Customer services

Mr S contacted Ikano in August 2020 about the issues he was having with the kitchen. It took it over a year to provide an answer on Mr S' dispute in September 2021. Whilst there are no timescales for section 75 claims, I do think it took longer than necessary. And whilst I appreciate that Ikano was liaising with the supplier and they weren't always forthcoming with information, I do think that Ikano could have reached the same outcome sooner, based on the evidence provided by Mr S.

Ikano has already apologised for the delay in its letter in September 2021. And I accept that it would have been stressful for Mr S to have to wait so long for an answer on his section 75 claim. I'm sorry to hear about Mr S' and his wife's health problems and he has told us about how this delay has impacted their health. In the circumstances, I think Ikano should make a compensation payment of £500 to Mr S to reflect this.

I think it would be helpful if I clarify that I'm not awarding any compensation for the stress caused by the kitchen issues Mr S has highlighted, as I don't think there is sufficient evidence to show that this is a result of a breach of contract or misrepresentation by the supplier. So, I can't hold Ikano responsible for that.

Mr S raised a complaint about the handling of his section 75 dispute on 22 December 2021, I can see Ikano provided its final response within the eight-week timescale, so I'm satisfied it didn't make a mistake with this.

My final decision

My final decision is I partly uphold this complaint and direct Ikano Bank AB (Publ) to Mr S £500 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 1 May 2023.

Karen Dennis
Ombudsman

