

## **The complaint**

Mr K complains that Creation Financial Services Limited, who I'll call "Creation", didn't uphold a claim he made to them under section 75 of the Consumer Credit Act 1974 ("section 75").

## **What happened**

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead, I'll focus on giving my 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.

I know it will disappoint Mr K, but I don't think Creation have been unreasonable here.

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.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point 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.

When something goes wrong and the payment was made with this type of credit, it might be possible to make a section 75 claim. This section of the Consumer Credit Act (1974) says that in certain circumstances, the borrower under a credit agreement has a like right to claim against the credit provider as against the supplier if there's either a breach of contract or misrepresentation by the supplier.

I'm not determining the outcome of a claim that a party might have under section 75. I take section 75 into account when I think about what's a fair way to resolve the complaint, but I don't have to reach the same view as, for example, a court might reach when considering breach of contract or misrepresentation.

From what I can see, all the necessary criteria for a claim to be made under section 75 have been met.

Section 49 (1) of the Consumer Rights Act (2015) says that:

*"Every contract to supply a service is to be treated as including a term that the trader must perform the service with reasonable care and skill".*

So, if there was evidence the wardrobes were not fitted with reasonable care and skill I'd think there had been a breach of contract, and it's likely I'd think Creation had been unreasonable to reject Mr K's section 75 claim.

The Consumer Rights Act (2015) also says that the goods should have been of satisfactory quality when supplied and that the quality of goods is satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, the price and all the other relevant circumstances. So, if I was satisfied the wardrobes weren't of satisfactory quality I'd again think there had been a breach of contract and I'd ask Creation to put things right for Mr K.

Mr K referred his complaint to the Furniture and Home Improvement Ombudsman. It was their view that:

*"...the nature of the issues raised would not be of sufficient level to warrant financial entitlement. In the absence of evidenced loss, compensatory entitlement is limited."*

I'm persuaded by their expert view that is the case, and having reviewed the various photographs, email, and WhatsApp messages provided by Mr K, I'm afraid I don't find those adequately demonstrate that there has been a breach of contract, that hasn't been sufficiently remedied.

I don't therefore think Creation have been unreasonable to reject Mr K's section 75 claim.

### **My final decision**

For the reasons I've given above I don't uphold this complaint.

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

Phillip McMahon  
**Ombudsman**