

## **The complaint**

Mr C complains about Creation Consumer Finance Ltd's decision to decline his claim for compensation, under section 75 of the Consumer Credit Act 1974, about a pair of fitted bookcases.

## **What happened**

In April 2022 Mr C ordered two bespoke fitted bookcases from a third party ("the supplier"). The cash price was £10,110. He paid a deposit of 20% of that with a debit card, and paid for the balance with a fixed sum loan financed by Creation. The bookcases were subsequently supplied and installed.

Mr C reported a number of faults to the supplier. The supplier agreed to carry out some further work on the bookcases, but Mr C was not satisfied with the results, and so he asked Creation for compensation under section 75. He initially asked for a partial refund. Creation contacted the supplier, who denied that there had ever been any faults and claimed that the further work had only been done as a gesture of good will. Based on that information, Creation declined Mr C's claim on the ground that the bookcases had nothing wrong with them.

Mr C then paid £500 for an independent expert to inspect the bookcases and prepare a report about his findings. The expert described a number of flaws in the way the bookcases had been made and installed, and said that the additional work carried out by the supplier had not resolved the issues, and in one respect had been sub-standard. He said that further remedial work was needed. Mr C then referred this complaint to our service; we have shared the report with Creation, which has in turn asked the supplier for its comments about it. It is still waiting for them.

One of our investigators considered this complaint. He found the report to be credible and convincing. Based on the findings in that report, he decided that the bookcases had not been of satisfactory quality and had not been installed with reasonable skill and care. Since the remedial work already carried out had failed, the investigator concluded that Mr C was now entitled to reject the bookcases and end his loan agreement. So the investigator recommended that Creation arrange for the bookcases to be removed at no cost to Mr C, end the loan agreement with nothing further to pay, refund all his monthly payments, and refund the deposit and the cost of the expert report too, with interest on all of those refunds at 8% a year from the respective dates of payment to the date of settlement. Finally, he said Creation should also pay Mr C £250 for his inconvenience, and remove from his credit file any adverse data about the loan.

Creation said it was still waiting for the supplier to comment on the report. After a while, this case was referred for an ombudsman's 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 have also thought about whether I should give Creation more time to obtain the supplier's comments about the expert report. But I think that plenty of time has been allowed for that already, and it would be unfair to keep Mr C waiting any longer. The investigator emailed the report to Creation on 25 May 2023, and on 14 July Creation acknowledged receipt and said it would review the report. The investigator issued his view on 8 August, being of the opinion (with which I agree) that Creation had had a reasonable time to consider the report. He said he had relied heavily on the report, as it was very detailed.

On 5 September Creation told the investigator that it had asked the supplier for some additional information and was waiting for its reply. On 9 September it asked for a copy of the report (which had already been provided); this was provided again. To date (1 November), Creation has apparently still not received from the supplier the response it has been waiting for. After this much time, I suspect that nothing will be gained by waiting any longer, but even if the supplier does intend to reply to Creation, I think it has already had long enough. And Creation has had the opportunity to evaluate the report for itself. I take into account that the statute which created the Financial Ombudsman Service requires us to resolve complaints quickly.

The report goes into detail about the shortcomings of the bookcases, and includes photographs. The author has set out his 25 years of experience, and I'm satisfied that he is a reliable expert witness. His report is unchallenged evidence in this case, but I have still considered whether it is reliable. Having done so, I think that his report is clear, credible, and helpful, and I accept his findings and most of his conclusions. I disagree with his opinion about one topic: while the finish of the back edges of the shelves does not meet with his approval, they are invisible when the shelves are fitted in place within the bookcases, and so I don't think that this supposed fault means that the bookcases are not of satisfactory quality. That aside, I think that the report sets out convincingly that the bookcases are otherwise not of satisfactory quality and were not installed correctly, and that the additional work carried out by the supplier has not resolved these issues.

In coming to that conclusion, I have taken into account that the bookcases were brand new and bespoke goods, and that they were expensive. I might have taken a more relaxed view about their shortcomings if this had been cheap, mass-produced furniture that the consumer had had to assemble himself. But in this instance, I think it is fair and reasonable to hold these goods to a higher standard. And it is clear from the report that the bookcases fall short of what I think Mr C was entitled to expect. So I uphold this complaint.

### **Putting things right**

The supplier having had its chance to repair the bookcases, and not having succeeded at that, I agree that Mr C now has the right to reject them. I think the redress proposed by my colleague is fair (and Creation has not argued otherwise), and so I will endorse and adopt that.

### **My final decision**

My decision is that I uphold this complaint. I order Creation Consumer Finance Ltd to:

- Arrange for the bookcases to be removed at no cost to Mr C;
- End the loan agreement with nothing further to pay, and remove any adverse information about it from Mr C's credit file;
- Refund all of his monthly payments;
- Refund the deposit of £2,022;

- Refund the cost of the independent report (£500);
- Pay interest on all of the above refunds at the rate of eight percent a year simple, from the dates each payment was made to the date of settlement;
- Pay Mr C £250 for his inconvenience.

If Creation considers that it is required by HM Revenue & Customs to withhold income tax from that interest, it must tell Mr C how much it's taken off. It should also give him a tax deduction certificate if he asks for one, so he can reclaim the tax from HMRC if appropriate. Mr C should refer back to Creation if he is unsure of the approach it has taken, and both parties should contact HMRC if they want to know more about the tax treatment of this portion of the compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 30 November 2023.

Richard Wood  
**Ombudsman**