

The complaint

Mr Y entered into a loan agreement with Clydesdale Financial Services Limited trading as Barclays Partner Finance (BPF) to acquire a kitchen. He says the kitchen supplied wasn't what was ordered. He raised a claim under section 75 of the Consumer Credit Act 1974, but BPF didn't uphold this. He doesn't think BPF investigated his claim properly.

What happened

In March 2023, Mr Y entered into a fixed sum loan agreement with BPF to acquire a kitchen. The kitchen contract was supply only and the loan was for just over £7,000 repayable over 60 months with monthly repayments of £118.51. The kitchen was delivered in May 2023, but Mr Y says it wasn't what he had ordered. He says that the cabinet doors had beading that he wasn't aware of and wasn't present on the kitchen he had viewed, and the two bridging units didn't have the finish he expected. Mr Y says that had he known what was being delivered he wouldn't have gone ahead with the order. Mr Y contacted the supplier, and it rejected his request for a refund but offered a price reduction. He then raised his concerns against the supplier with The Furniture Home Improvement Ombudsman (TFHIO) which didn't uphold his complaint. Mr Y raised a claim with BPF under Section 75 on 20 June 2023, but says the case was closed the next day without any thorough investigation.

BPF issued a letter dated 21 June 2023. It said that the kitchen supplier provided a copy of Mr Y's contract and photos from the showroom and said that Mr Y had been supplied with the goods in line with his contract. It noted that Mr Y had put his complaint against the supplier to TFHIO which said the kitchen was supplied as per the contract. BPF then issued a final response letter dated 4 July 2023 reiterating its position as set out in the letter dated 21 June and providing referral rights to this service.

Mr Y wasn't satisfied with BPF's response and referred his complaint to this service.

Our investigator upheld this complaint. He noted that Mr Y's claim was that the goods supplied by the kitchen supplier weren't as described meaning the contract had been breached. He compared how the kitchen was described in the order form and the images of the kitchen Mr Y saw in the showroom against the kitchen Mr Y had received and was satisfied that Mr Y's kitchen wasn't as described. He recommended that Mr Y be allowed to reject the kitchen and receive a full refund. He also recommended that Mr Y be paid £300 compensation for the time spent dealing with this issue as he thought there was enough evidence for BPF to have upheld this claim when it was raised in June 2023.

BPF contacted the supplier which didn't agree with our investigator's view. The supplier said that Mr Y contacted it the day after delivery to say he had wanted a different range to that which was shown on his contract. It said that the beading around the glass was a standard part of the kitchen range, and this had been made clear to Mr Y in the plans. It said that between the time of Mr Y's order and the kitchen delivery the manufacturing process had changed so the standard colour of the beading had changed but it said the colour of the beading wasn't set out in the contract. It said it had made goodwill offers to Mr Y but these had been rejected and noted that TFHIO endorsed its offers. It didn't accept that Mr Y's request to reject the entire kitchen based on concerns with three doors was proportionate

and it thought its offers to remedy the situation were reasonable. Instead of rejection, it offered two alternative options in regard to the glass fronted units and a décor panel to conceal the underside of the extractor.

Mr Y didn't accept the supplier's offer. He noted that it wasn't just three units that weren't as expected but five (three glass fronted units and two bridging units) but he said this wasn't relevant as he didn't get the kitchen he expected. Mr Y also asked if a higher amount of compensation could be considered given the time this issue had been ongoing and that he had been operating without a fully functioning kitchen for an extended period.

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.

Mr Y's complaint is that BPF didn't uphold his claim under Section 75 in regard to a kitchen he acquired using a fixed sum loan agreement. Section 75 provides that in certain circumstances, a consumer can bring a like claim against the provider of the credit if the supplier of the goods or services breaches or misrepresents its contract. In this case the Consumer Rights Act 2015 (CRA) is also of particular relevance. The CRA states that the goods are to be as described – so if goods are supplied to a consumer which don't match the description in the contract, the contract can be considered breached.

Mr Y has said that the kitchen he received wasn't as described. The kitchen hasn't been installed and he wishes to reject it. I have looked at the evidence provided, and the issues relate to the three glass fronted wall units and two bridging units.

The issue with the glass fronted units relates to the beading around the edge of the glass. Mr Y says that the kitchen he had been shown as an example didn't have any beading and the only sample in the showroom with beading was for a different kitchen. He provided photographs of the showroom kitchen he looked at which had no beading and also the panoramic view of the kitchen he was sent didn't include the beading. The order form doesn't mention the beading around the glass. The supplier said that the range Mr Y had chosen had the beading as standard. Having considered the information provided I accept that Mr Y wasn't expecting the glass fronted units to have any beading. I note the image provided by the supplier and its comment about beading being standard to the range Mr Y ordered but having looked at the picture I cannot say that this alone clearly shows the beading and I note the photograph comes with a comment that images are for illustrative purposes only. So, on balance I accept that Mr Y wasn't made aware that his units would have beading.

That said, even if I accept that Mr Y should have questioned or been aware of the beading due to the range of kitchen he selected, the beading colour was changed between the time of order and the kitchen delivery. The beading in the delivered kitchen is very clearly apparent, being a different colour to the kitchen and I accept this changes the visual of the kitchen and presents a different finish to that ordered by Mr Y. Therefore, I accept that the glass fronted units Mr Y received weren't as described to him when he placed his order and so a breach of contract has occurred.

I have then considered the bridging units. Mr Y said that the interior colour is also visible on the exterior and he wasn't made aware of this. Mr Y chose a 'pebble interior' and this is clear on the contract, and I can see why, had he known the exterior would be visible on the bridging units he would have made a different choice. In response to Mr Y's concern about this, the supplier said that it was expected to have exposed bases on wall units and as the carcasses were pebble this would be more visible but acknowledged that it would feedback

to the showroom about making this clear to customers. In this case I can see that the reference in the order is to the carcass being pebble and there is no mention of a different panel under the unit. Based on this, I do not think I have enough to say that this wasn't as described but I also accept that this situation wasn't made clear to Mr Y.

I note the supplier's comment that rejecting the kitchen isn't proportionate given only some of the units had issues. I don't agree. Mr Y ordered a complete kitchen and as I accept that part of this wasn't as described I find there was a breach of contract and I think the fair resolution is for him to be allowed to reject the whole kitchen. I note the offers made by the supplier in regard to changes to the units but these don't deliver the kitchen Mr Y had ordered and so I do not think it unreasonable he declined the offers.

Mr Y raised his concerns within 30-days of the kitchen being delivered and it hasn't been installed. Therefore, I find the fair resolution in this case is for Mr Y to reject the kitchen and for BPF to have this collected from him at no cost and his agreement ended with no further liability and any payments refunded.

Our investigator recommended Mr Y be paid £300 compensation as he felt BPF should have upheld this complaint when Mr Y first raised it. Mr Y feels that given the length of time this issue has been ongoing and the inconvenience he has been caused a higher amount of compensation is justified. The distress and inconvenience awarded is for the service provided by BPF (and not the supplier) and while I can understand that delays have caused Mr Y inconvenience, this compensation is for the service BPF provided in its response to the claim raised. In this case, I think that compensation of £300, along with the rejection of the kitchen, is a reasonable resolution to this complaint.

Putting things right

BPF should:

- End the agreement with nothing further to pay;
- Collect the kitchen at no extra cost to Mr Y;
- Refund any payments or deposits Mr Y has made under the agreement, along with 8% simple interest from the date of any payment made to the date of settlement*;
- Remove any adverse markers on Mr Y's credit file in respect of this agreement; and
- Pay Mr Y £300 compensation for the distress and inconvenience he has been caused.

*HM Revenue & Customs requires BPF to take off tax from this interest. BPF must give Mr Y a certificate showing how much tax it's taken off if he asks for one.

My final decision

My final decision is that Clydesdale Financial Services Limited trading as Barclays Partner Finance should take the actions set out above in resolution of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Y to accept or reject my decision before 18 April 2024.

Jane Archer

Ombudsman