

The complaint

Mr T says A Shade Greener (Boilers) LLP, has treated him unfairly in relation to boiler installation and maintenance agreement.

What happened

In October 2012 Mr T contracted to have a boiler installed with A Shade Greener (Boilers) LLP ('ASG' for short). He used a conditional sale agreement to fund this and also entered into a maintenance agreement with them to maintain the boiler. In February 2022 Mr T discovered an electrical fault and called out an electrician. The electrician came out and said there was damp and thought it came from the boiler. So Mr T called ASG out. ASG attended and said the boiler was not the cause of the damp. Mr T incurred costs as a result of the leak/damp and wants ASG to cover those costs because he thinks the boiler caused the damage. ASG said there was nothing wrong with the Boiler and it wasn't leaking so it refused to cover the costs Mr T incurred, so he brought his complaint to this service.

Our investigator considered the matter and issued an assessment which said he didn't think ASG had to do anything more. Mr T remains dissatisfied. Accordingly this complaint comes to me to decide.

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.

As this is a conditional sale agreement Mr T didn't own the goods until he'd paid off the money borrowed to finance the boiler installation. And there is in essence three considerations here, the quality of the goods supplied, the installation service and the service of the maintenance of the boiler. It should also be noted that this installation and provision of the boiler preceded the Consumer Rights Act 2015 (the 'CRA') which wasn't retrospective. So the CRA doesn't apply to the boiler provided or the installation service completed in 2012.

Mr T accepts that the boiler has worked as it should for almost ten years and that it continued to work throughout. And even if I was persuaded the leak emanated from the boiler itself, considering the years of reliable service it has provided since installation, I'm not persuaded that would show it was not of sufficient quality at the point of receipt by Mr T in 2012. I think if there was a defect in the boiler at that point it would have been likely to become apparent far sooner than almost ten years after installation. So on balance of probabilities I'm satisfied that the boiler itself was fit for purpose as it clearly worked throughout.

Next to be considered is the installation of the boiler equipment and that that service should have been provided fairly. It is clear that Mr T hasn't complained of there being damp in the intervening nine years since it was installed. And for similar reasons as above I think if the installation had been defective in 2012 then the issues with damp would have come to light far sooner than in 2023. So even if the damp had come from the boiler, I'm not persuaded that would have shown the boiler was defectively installed in 2012. I appreciate that such a leak can take some time to become evident, had there been a leak for ten years I'd have expected there to have been substantial damage done including things such as structural damage or other damage requiring substantial works to remedy. So I'm not persuaded this boiler was installed without sufficient skill.

Mr T points to evidence including photographs and his testimony and indeed comments made by the electrician that attended. However ASG's engineer attended and has produced a report which I note appears to be signed by Mr T. This report notes there is apparently some damp locally but notes it's not related to the boiler. The engineer points to photographs taken at the time and I note that none of those photographs show significant damp readings on the damp meter around the boiler.

I've also considered Mr T's photographs that he says his electrician took. I note those also indicate no significant damp issues. Mr T points to one photograph where the moisture meter shows "OL" which could be considered to mean 'over limit', that is, more than the level of damp tolerance. But I've looked up that particular item on the manufacturer's instructions (part number 43618 – MM100) and I note "OL" means "out of operating range". So I don't think that particular photo is persuasive of significant dampness.

So having considered the evidence of ASG I think it is persuasive. I'm not persuaded that any damp has been shown to be as a result of the boiler. That doesn't mean to say I'm saying that there is no damp, but rather, it hasn't been shown that ASG has treated Mr T unfairly by not covering the cost of the repairs he says he suffered. And I think the fact that the report from the time appears to have been signed by Mr T accepting the engineers position seems persuasive to me that he accepted at the time the boiler wasn't the cause of any damp present.

Mr T has argued that ASG must have fixed the leak when it attended. I'm not persuaded this was the case considering the moisture readings the ASG report contains from that day. Had the ASG engineer repaired the leak the moisture readings would be significant around the boiler because there wouldn't have been the opportunity or time for the surrounding walls to dry out in the limited time the engineer was present. And even if the engineer had done so that would have been what they were required to do under the maintenance contract in any event. And as I'm satisfied on balance that the boiler and its installation were done appropriately I don't see any reason for it to do anymore in any event.

Mr T has said in response to the Investigator's assessment of the matter that:

"The main point I ask to be considered is that before (ASG) attended there was a leak, they agree there was a leak. After they went and had changed parts etc there was no leak as I had my insurance company out and they confirmed no leak and said it had been fixed. Also confirmed by the electrician."

However the ASG engineer makes clear there is no leak from the boiler. He does point to some evidence of damp nearby but makes clear its not the boiler. The engineer makes clear that they changed parts as part of the usual servicing, not as Mr T suggests in the process of fixing the leak. So I'm not persuaded by the main point Mr T seeks to make. Accordingly I'm not persuaded that ASG has treated Mr T unfairly in relation to any damp present. And so Mr T's complaint is unsuccessful.

I appreciate this isn't the decision which Mr T wishes to read. Nevertheless I'm not persuaded that ASG has anything further to do in this matter.

My final decision

For the reasons set out above, I do not uphold the complaint against A Shade Greener (Boilers) LLP. It has nothing further to do in this regard.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 19 April 2024.

Rod Glyn-Thomas
Ombudsman