

The complaint

Miss I complains that a kitchen which she bought was not properly installed. Because she paid for it in part with finance provided by Clydesdale Financial Services Limited, she says that it is equally liable with the supplier to put things right. Clydesdale Financial Services Limited trades as Barclays Partner Finance, and I'll refer to it as "BPF".

What happened

In September 2022 Miss I entered into a contract with a well-known seller of home improvement and similar products for the supply and fitting of a kitchen. I'll call the retailer "W". The contract price was £13,529.57, which included design, appliances, cabinets, worktops and installation. Most of the purchase price – £12,129.57 – was to be provided by way of a loan from BPF, arranged by W.

The loan agreement included a deferred payment arrangement, so no payments were due for a year.

There were a number of problems with the fitting of the kitchen, and discussions about how they should be resolved between Miss I and W continued for several months. Miss I was unhappy with the rectification work that had been attempted, and on 12 September 2023 W wrote to her as follows:

"You have advised that you would like the value of £2098.55 to be refunded to you in lieu of any rectification works and any contract with Wickes becomes null and void and Wickes are no longer responsible for any rectification works in the future.

"The Ombudsman had already awarded a figure of £500.00 to acknowledge delays, disruption and inconveniences and you had accepted their award.

*"So to clarify the total figure that is to be paid directly to you is **£2598.55** in full and final, this will null and void any contract that you have with Wickes moving forward."*

The reference to "The Ombudsman" in W's email is to the Furniture and Home Improvements Ombudsman, not to this service. W arranged payment in line with that agreement.

Shortly after that, BPF contacted Miss I to tell her that payments were due under the loan agreement. Miss I said that she believed her agreement with W meant that she did not have to pay anything more. In addition, the sum she had accepted did not properly compensate her for what had happened, since the estimated cost of remediation work to her kitchen was significantly more than W had paid her.

BPF considered Miss I's concerns as a claim under section 75(1) of the Consumer Credit Act 1974 ("section 75"). It said, in summary, that the loan agreement was a separate contract from the agreement which Miss I had with W and that she still needed to make the payments which had been agreed. It did not believe it had made any error.

Miss I referred the matter to this service, where one of our investigators considered what had happened. He issued an initial assessment, but did not recommend that the complaint be

upheld. He thought that the dispute over the installation of the kitchen had been resolved when Miss I and W had agreed on the payment of £2,598.55. It would not therefore be fair to require BPF to do any more to resolve matters.

Miss I did not agree and asked that an ombudsman review the case.

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.

One effect of section 75 is that, where an individual has a claim for breach of contract against a supplier of goods and/or services and that contract is financed under arrangements between the supplier and a lender, that individual has a similar claim against the lender. Miss I's loan from BPF was arranged by W, and other relevant financial conditions were met in this case, so I am satisfied that I need to consider section 75 and Miss I's dealings with W.

Miss I's contract with W was a contract for the supply of goods and services – that is, the supply of the kitchen and its design and installation. Her dispute with W concerns the services (that is, the installation), rather than the supply of goods (the appliances, cabinets and worktops), although I acknowledge that Miss I says that some items were damaged in the fitting.

Under the Consumer Rights Act 2015, the installation and fitting of the kitchen should have been carried out with reasonable care and skill. I believe that W accepts that it was not.

Where work is not carried out with reasonable care and skill, a consumer generally has the option to ask for remedial works to be carried out or to a price reduction. In this case, Miss I initially asked for remedial works to be carried out, but they were not successful, in the sense that the work remained of an unsatisfactory quality.

BPF's case is that Miss I agreed to a reduction in price and that, by doing so, settled her claim against W. Having done so, she cannot properly now bring the same claim against BPF under section 75. I have therefore considered that argument carefully.

I do not believe there is any doubt that Miss I agreed to accept a payment totalling £2,598.55 in September 2023. I must therefore consider the terms on which she did so.

W's email of 23 September 2023 said that acceptance of the payment would "*null and void*" any contract Miss I had with W. I do not believe however that that is a fully accurate legal analysis of the position. I do not believe for example that the intention was to rule out future claims if any of the appliances should turn out not to be of satisfactory quality.

In my view, what the email did make clear, however, was that the payment was intended to resolve the dispute which had arisen over the installation of the kitchen. It said that the payment was "*...in lieu of any rectification works...*" and that W was "*... no longer responsible for any rectification works...*".

There was no mention of the loan agreement. That was, however, a separate agreement with BPF, so even, as W appears to say, Miss I no longer has a contract with it, she still has a contract with BPF, requiring her to repay the loan. I note that Miss I says W should have made this clear, and I can understand why. But it is not for me to comment on the actions of W in that regard.

In my view, Miss I and W resolved the dispute over the installation work by the payment in September 2023. It may be that Miss I did not fully understand the effect of accepting the payment and that, on reflection, she feels she could have pressed for more. I think however that it was clear that the payment was intended to resolve in full the dispute over the installation work. I do not therefore think it would be appropriate for me to make an award which would have the effect of reopening that issue.

It is not for me to say whether Miss I does in fact have a claim against W. Nor is it for me to decide whether he has a claim against BPF under section 75. What I must do is decide what I consider to be a fair resolution of Miss I's complaint about BPF, having regard, amongst other things, to any relevant law – including the Consumer Rights Act and the Consumer Credit Act. Since she has agreed a resolution of her underlying dispute with W, I do not believe it would be fair to require BPF to do anything more to resolve this matter.

My final decision

For these reasons, my final decision is that I do not require Clydesdale Financial Services Limited to do anything more to resolve Miss I's complaint.

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

Mike Ingram

Ombudsman