

The complaint

Miss I complains that Sainsbury's Bank Plc rejected her claim under section 75 of the Consumer Credit Act 1974 in relation to a poorly fitted kitchen.

What happened

In 2022 Miss I paid a third party ("the merchant") to supply and install a new kitchen for her home. She paid a deposit of 50% of the price using a credit card with another bank. After the kitchen was installed, she paid the balance with her Sainsbury's Bank credit card.

Shortly after the kitchen was installed, Miss I told the merchant that she was not satisfied with the workmanship. The merchant returned and carried out some remedial work for free. A couple of months later, Miss I contacted the merchant again, about a gap which had appeared between some panels and the kitchen worktop. The merchant returned and carried out further work. Being dissatisfied with the results, Miss I contacted Sainsbury's Bank that same day to ask for a refund of her payment. The bank treated that request as a claim under section 75 for breach of contract by the merchant.

Sainsbury's Bank declined to refund Miss I. In making that decision, it took into account the fact that the other bank had refunded her deposit by way of chargeback. Sainsbury's Bank thought that since Miss I still had a kitchen, a refund of 50% of the total price rather than a full refund was sufficient compensation, and she had already received that. Unfortunately, Sainsbury's Bank took ten months to make that decision.

Miss I then brought this complaint to our service. She complained about both the outcome of her section 75 claim, and how long it had taken.

Our investigator upheld the complaint about the delay, much of which had been avoidable, and recommended that Sainsbury's Bank pay Miss I £100 in compensation for that. But she did not uphold the complaint about the outcome of the section 75 claim. She agreed that Miss I was not entitled to a full refund, because she now had a kitchen; a 100% refund would amount to giving her a free kitchen. She decided that on the basis that there was no dispute that the merchant had breached its contract with Miss I, but there was no clear evidence that any further remedial work was necessary. The independent report about the condition of the kitchen was sparse on detail, and did not state the cost of any more work.

Sainsbury's Bank accepted that decision. Miss I did not. She said she had still not got what she'd paid for. She wanted to obtain another independent report, but she was unable to find someone who was willing to provide one. However she did provide photos of the kitchen. She asked 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.

Section 75 makes Sainsbury's Bank liable for a breach of contract by the merchant; the bank does not dispute that the section applies. Under the Consumer Rights Act 2015, there were implied terms that the kitchen would be of satisfactory quality and that it would be installed with reasonable skill and care. It is not in dispute that these terms were breached. The only question is whether a full refund would be a fair remedy.

I have seen Miss I's photos. They clearly show that the panels are not properly joined to the worktop, and I agree that the work is not satisfactory. However, I am still unpersuaded that the 50% refund she has already received will not be enough to cover the cost of putting this right.

I've read the report. It does not say what remedial work needs to be done, or how much it would cost. It's not Miss I's fault that she couldn't get another, more helpful report, but that does not change the fact that there is no evidence that the refund she has received would not be enough to pay for whatever remedial work still remains to be done.

Since the kitchen has been installed, I think that a full refund would normally only be fair if the entire kitchen had to be removed again. Miss I has not asked for that to happen, and I don't think that would be proportionate. The kitchen is still usable; I think the poor joints are a cosmetic or aesthetic issue.

So in summary, I agree that there has been a breach of contract by the merchant; I agree that the bank is liable for it; and I agree that the merchant's attempts to put things right have not been successful. Legally, Miss I now has the right to reject the kitchen, which would mean removing it all, but she has not exercised that right, and I think it would not be proportionate, nor would it reduce her stress. I think she should arrange to have a third party come and repair it, using the deposit that was refunded by the other bank. But I don't think that Sainsbury's Bank needs to do anything about it.

I agree that the bank did take too long to give Miss I its answer to her request for a refund. But given that I have found that it was the correct answer, I think that £100 is fair compensation and is in line with what I would have awarded if the investigator hadn't recommended it already. So I will require the bank to pay that, but I'm afraid that is all.

My final decision

My decision is that I uphold this complaint in part. I direct Sainsbury's Bank Plc to pay Miss I £100.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss I to accept or reject my decision before 14 October 2024.

Richard Wood

Ombudsman