

The complaint

Mrs H complains that Lloyds Bank PLC rejected her claim under s.75 Consumer Credit Act 1975 (“s.75”) in respect of faulty goods.

What happened

In 2022 Mrs H bought goods online which turned out to be faulty. I believe they were replaced twice, but none of them worked properly. In February she contacted Lloyds and made a s.75 claim, but it rejected it on the basis that the required debtor-creditor-supplier agreement was not in place. The payment had been made through an intermediary I will call P.

Mrs H brought a complaint to this service where it was considered by one of our investigators who initially believed that P was acting as a payment processor and so did not break the D-C-S agreement. As a result he recommended the complaint be upheld. Further enquiries identified that the purchase had been made using Mr H’s account with P and it was not acting as a payment processor in this instance. Our investigator concluded that there was no D-C-S agreement as required by s.75 and so the complaint should not be upheld.

Mrs H didn’t agree and asked that her complaint be referred to an ombudsman. She considered it wrong that she was not afforded the protection she had expected.

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 every sympathy with Mrs H, but I do not consider I can uphold her complaint. I will explain why.

This complaint has been submitted as a claim under s. 75 CCA. This legislation offers protection to customers who use certain types of credit to make purchases of goods or services. Under s. 75 the consumer has an equal right to claim against the provider of the credit or the retailer providing the goods or services, if there has been a misrepresentation or breach of contract on the supplier’s part.

For section 75 to apply, the law effectively says that there has to be a:

- Debtor-creditor-supplier agreement *and*
- A clear breach of contract or misrepresentation by the supplier in the chain.

Having read the details of the claim it seems clear that there has been a breach of contract. The goods supplied were not of a satisfactory standard. However, that on its own is not sufficient. The legislation requires there to be a D-C-S agreement in place for it to have effect.

The intermediary in this case provides a range of services which includes acting as a merchant acquirer which will deal with payment processing. When acting in that capacity it has been established by the courts that it is not operating as an intermediary but is providing a payment service to the supplier. If it had been acting in this capacity when Mrs H purchased her goods than it is possible the claim would have succeeded.

However, when Mrs H made a payment she used the account her husband has with P and it then paid the supplier. This means P was acting as an intermediary and not as a payment processor. In turn this means that there was no direct link between Mrs S and the supplier and Lloyds. In effect Mrs H paid her husband who then paid the supplier via his account with P.

I also note that P has explained that the payment breached P's terms and conditions. It requires the card registered to the account to be that of the owner. I gather it was Mrs H's card which was registered with P. This also undermines the D-C-S requirements.

This break in the agreement results in s.75 having no force in this situation. I appreciate this will come as a disappointment to Mrs H, but I cannot say that Lloyds did anything wrong in rejecting her claim.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 30 December 2024.

Ivor Graham
Ombudsman