

The complaint

Mrs B complains that Bank of Scotland plc, trading as Halifax, won't refund to her the money that she paid for some legal services.

What happened

Mrs B entered into a contract that is dated in January 2020 with a supplier for some legal services. She agreed to make two payments of £3,125 to the supplier and she used her Halifax credit card in February 2020 to make the first of those payments. Mrs B made a claim to Halifax in March 2024 under section 75 of the Consumer Credit Act 1974 for a refund of the money that she'd paid to the supplier. It didn't uphold the claim as it said that there wasn't sufficient evidence to prove a misrepresentation by the supplier.

Mrs B complained to Halifax about its response to her section 75 claim but it declined her complaint as it said that it wasn't persuaded that there was sufficient evidence to show a misrepresentation by the supplier. Mrs B wasn't satisfied with its response so complained to this service. She says that she paid the supplier to evict tenants from a property, which was clarified in emails, and the appeal was won but the property hasn't been vacated.

Her complaint was looked at by one of this service's investigators who, having considered everything, didn't recommend that it should be upheld. She said there wasn't sufficient evidence of a breach of contract or misrepresentation by the supplier so she thought that Halifax had reached a fair outcome.

Mrs B didn't accept the investigator's recommendation and has asked for an ombudsman to make a decision on her complaint. She's provided extracts from her email correspondence with the supplier in which she's highlighted some sections and she says that the written evidence shows the service that she paid for and what the supplier delivered and she says that there was a misrepresentation by the supplier and that Halifax was wrong not to refund her money to her under section 75.

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.

In certain circumstances, section 75 gives a consumer an equal right to claim against the supplier of goods or services or the provider of credit if there's been a breach of contract or misrepresentation by the supplier. To be able to uphold Mrs B's complaint about Halifax, I must be satisfied that there's been a breach of contract or misrepresentation by the supplier and that Halifax's response to her claim under section 75 wasn't fair or reasonable (but I'm not determining the outcome of Mrs B's claim under section 75 as only a court would be able to do that).

Mrs B's contract with the supplier says that the scope of the engagement was for the supplier to provide: *"... complete assistance and support in representation in Appeals pending in the [specified court] on behalf of [Mrs B] filed by the tenants against the eviction*

orders passed against them". It also says: "It is also expressly understood that the fee quoted for the matter is for the present court of law only. All appeals filed subsequently will be treated as a separate matter and quoted separately".

Mrs B has provided extracts from her email correspondence with the supplier in which she's highlighted some sections and she says that she paid the supplier to evict tenants from a property and the appeal was won but the property hasn't been vacated. Included in that email correspondence is a response from the supplier to an email from Mrs B (which hasn't been highlighted by Mrs B) and which says: *"We will be doing all the legal work to evict the tenants please understand we are a law firm and can not do any physical work. From legal point of view we will do all the work required to evict the tenants. Any relevant departments help needed and any point will be taken".*

My understanding of the contract is that the supplier was providing legal services to Mrs B in the appeal against the eviction order that had been passed against the tenant and the supplier provided evidence to Halifax to show that it provided those services to Mrs B. I'm not persuaded that the email correspondence between Mrs B and the supplier was enough to extend the scope of the contract to the actual eviction of the tenants or that it shows that the supplier had agreed to evict the tenants.

Having carefully considered all of the information that Mrs B has provided, I'm not persuaded that there's enough evidence to show that there's been a breach of contract or misrepresentation by the supplier for which Halifax would be liable under section 75. I consider that Halifax's response to Mrs B's complaint was fair and reasonable in these circumstances.

The investigator also considered whether a chargeback claim would have been successful but she said that, as there was a lack of evidence that the service that Mrs B received wasn't as described, even if Halifax had raised a chargeback, it would have likely failed due to a lack of evidence. If a consumer disputes a card payment, the card issuer may be able to make a chargeback claim to the merchant under the relevant card scheme to try to settle the dispute. There's no right for a consumer to require that a chargeback claim be made and the applicable scheme rules set out the disputes that can be considered and the time limits for making a claim. If the right to make a chargeback claim exists under the applicable scheme rules, and if there's a reasonable prospect of success, I consider it to be good practice for a chargeback claim to be made. I'm not persuaded that there would have been a reasonable prospect of a successful chargeback claim in these circumstances so I don't consider that Halifax acted incorrectly by not making a chargeback claim.

Mrs B clearly feels very strongly that the supplier has acted incorrectly and she's described the stress and anxiety that she's experienced and the financial effect on her of these events, so I appreciate that my decision will be disappointing for her. I find that it wouldn't be fair or reasonable in these circumstances for me to require Halifax to refund to Mrs B any of the money that she paid to the supplier or to take any other action in response to her complaint.

My final decision

My decision is that I don't uphold Mrs B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 26 May 2025.

Jarrod Hastings
Ombudsman