

The complaint

Mr J has complained that Creation Consumer Finance Ltd (“CCF”) rejected his claim against it under Section 75 of the Consumer Credit Act 1974.

What happened

In June 2020, Mr J entered into a fixed sum loan agreement with CCF to fund the purchase of a dishwasher from a supplier that I’ll call “M”. The cash price was just over £1,400. Mr J was due to pay back the agreement with monthly payments of just under £40 and the term of the loan was around 3 years.

In July 2024, Mr J contacted M as the dishwasher had broken down. M offered to send out an engineer to repair the dishwasher and notified Mr J of the cost, as the dishwasher was outside of its two-year warranty period. Mr J felt the repair should be free as a dishwasher should last more than four years. Mr J said M told him, it would see what it could do.

M eventually repaired the dishwasher and sent Mr J an invoice for £581. Mr J refused to pay this believing the repair should be free as he felt this dishwasher from this supplier was expensive and this supplier often said its products last around 20 years. M said as the dishwasher was now outside the warranty period, any repairs were chargeable, and Mr J was informed of the costs before it came out to look at it – and had never agreed to do it for free.

Mr J subsequently raised a section 75 claim against CCF under the Consumer Credit Act 1974 (s.75). CCF rejected the claim for the same reasons as those set out by M.

Mr J remained unhappy so referred the complaint to our service. Our investigator looked into things and didn’t think CCF had acted unfairly. He said there wasn’t sufficient evidence that there had been a breach of contract because there was no evidence the dishwasher was defective.

Mr J didn’t agree. He sent in an engineer’s report who said he thought the machine had likely suffered from component failure after being used for a period of time and that a dishwasher should last more than four years. The engineer also commented that he was surprised the repair hadn’t been carried out for free. Mr J also submitted evidence of M, displayed on its website, that it tested its products and expected them to last up to 20 years.

CCF responded that the adverts that M’s products could last up to 20 years was not a guarantee and said the engineers report gave no details about the fault that actually occurred.

Our investigator pointed out the engineer had commented that he had no knowledge of this type of dishwasher, and it was his subjective opinion that the product should’ve lasted more than four years. He also reiterated that the product hadn’t been guaranteed for 20 years but had only come with a two-year warranty that had now passed. As things weren’t resolved the complaint has been passed 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.

Firstly, I'd like to reassure Mr J, that I have considered all his concerns carefully, but I will only be dealing with the most salient parts of his complaint in this decision as I'm required to decide matters quickly and with minimum formality.

I would add that I'm sorry to hear that Mr J is unhappy with the dishwasher. But it may be helpful to explain that I need to consider whether CCF – as a provider of financial services – has acted fairly and reasonably in the way it handled Mr J's claim. It's important to note CCF isn't the supplier. S.75 is a statutory protection that enables Mr J to make a 'like claim' against CCF for breach of contract or misrepresentation by a supplier paid using a fixed sum loan for the provision of goods or services. But I want to explain from the outset that I can only consider Mr J's complaint on that narrow basis – that is, whether it was fair and reasonable for CCF to respond to his claim in the way that it did.

There are certain conditions that need to be met for s.75 to apply. From what I've seen, those conditions have been met and CCF has also agreed that s.75 applies.

Misrepresentation

To make a claim for misrepresentation, I'd have to consider if the dishwasher has been misrepresented to Mr J in any way and that this caused him to suffer loss. For the purpose of this decision, I've used the definition of a misrepresentation as an untrue statement of fact or law made by one party (or his agent) to a second party which induces that second party to enter the contract, thereby causing them loss.

I've considered whether the comments made by M generally online that it tests its products to last up to 20 years amount to a misrepresentation and I'm afraid I don't. I haven't seen any evidence that Mr J was given any sort of guarantee that his dishwasher would last 20 years – he was given a two-year warranty, and the dishwasher didn't breakdown until four years had passed. Additionally, M (through CCF) has pointed out that it has never said its products wouldn't require maintenance or repairs during the 20-year period. It offers a two-year warranty, where (subject to some exclusions) repairs are free of charge, and I can see that consumers can purchase extended warranties after this period has passed. So, I think it's clear that products may require repairs within that 20-year period which is why M sells additional warranties.

So, while I understand Mr J's frustration, and understand that he felt the dishwasher should last longer than four years before a breakdown, I'm afraid I don't agree that the comment that M's products are designed to last up to 20 years amounts to a misrepresentation. I understand that his dishwasher has now been repaired, and it may well be its lasts a long time – but I don't think it requiring a repair four years after sale means the dishwasher has been misrepresented to him.

Breach of contract – express terms

In order for me to uphold Mr J's s.75 claim on this basis, I'd have to be satisfied that M breached a term of the contract – and that caused him to suffer loss. I've initially looked at whether there has been an express breach of the contract that M had with Mr J.

Mr J bought a dishwasher which he received and used for almost four years – and as explained by CCF, Mr J's dishwasher only came with a two-year warranty. It wasn't

guaranteed for 20 years. So, I don't think any express terms have been breached in this case.

Breach of contract- implied terms

The Consumer Rights Act 2015 (CRA) is also relevant to this complaint. The CRA implies terms into the contract that the goods must be of satisfactory quality, aspects of which include goods being durable and free from minor defects. The CRA also sets out what remedies are available to consumers if statutory rights under a goods or services contract are not met.

So, I've gone on to consider whether there has been a breach of an implied term in the contract. I understand Mr J said he expected the dishwasher to last more than four years, but I don't think it's unfair for CCF not to simply assume the dishwasher wasn't of satisfactory quality at the time of sale because it suffered a breakdown four years after purchase.

As Mr J is making a claim a number of years after the sale, CCF would only be liable to offer a remedy, if Mr J could establish with evidence that the dishwasher was either, defective to begin with or was of unsatisfactory quality at the time of sale, or show that the dishwasher isn't durable as would be expected - rather than becoming damaged over the years due to usage.

Machines sometimes breakdown due to wear and tear, overuse, misuse, accidents or lack of proper care or maintenance. Additionally, a machine requiring proper maintenance, replacement parts or repairs after being used for four years – doesn't automatically mean that it's not sufficiently durable. Especially since after the repair, it seems to be working as intended and may last for a substantial number of additional years. In order to uphold this complaint, I'd need to see evidence (usually from an independent expert with experience of this type of machine), explaining why the dishwasher requiring a repair after four years means the system isn't sufficiently durable (and therefore not of satisfactory quality), rather than a general assumption that a dishwasher should generally last longer than four years without a breakdown.

I have looked carefully at the report Mr J's engineer produced. The engineer admitted that he doesn't have any knowledge of this type of dishwasher, but he felt generally the dishwasher should've lasted longer than four years. He didn't give any information as to the actual fault suffered by the dishwasher (likely because it had already been repaired), but he guesses that it was component failure. He also highlighted that his views were his subjective opinion. Usually, businesses like CCF would require a report from an independent expert, well versed in these types of machines, to have examined and noted the reason for the failure and repair and then comment on whether the machine itself was of poor quality because it wasn't sufficiently durable, or whether it had broken down for some other reason such as accidental damage, mis-use or not being maintained properly.

I've considered this evidence carefully, but I have to bear in mind that it's from an individual who admitted he doesn't have any knowledge of this particular dishwasher, hadn't examined the fault before it was repaired, and only gave a subjective opinion that the dishwasher ought to have lasted longer than four years. So, I'm not satisfied this sufficiently evidences that the dishwasher was faulty to begin with or that it isn't sufficiently durable. As I've explained above, the machine lasted for four years which isn't an insignificant amount of time, lasted two years longer than the guarantee provided by M, and M hadn't guaranteed the dishwasher for 20 years (certainly not without repair or maintenance). So, I don't think it was unfair for CCF to conclude that there wasn't sufficient evidence that there had been a breach of contract here.

I understand it's difficult for Mr J to now obtain evidence as to the cause of the breakdown because it's been repaired. But, bearing in mind, he raised his claim four years after the sale, I don't think it's unreasonable for CCF to require some evidence that either the dishwasher was of unsatisfactory quality when it was sold to him or not sufficiently durable – which would lead to CCF being liable to offer a remedy (such as covering the cost of the repair).

Mr J was aware that the dishwasher was no longer under warranty, and M informed him of the different charging options available (fixed fee or variable) to have it repaired. If he felt that it should have been free because it was defective or of poor quality, this should have been ironed out before he accepted the repair. This would've given him the chance to have the machine looked at to see if it had simply broken down due to wear and tear or some other reason, or whether there was evidence of the dishwasher being defective (which would give rise to a s.75 claim). I have looked at the email chain he sent in, and while I can see he did say he wanted it to be done free of charge, I haven't seen any evidence that M agreed to do this for free. So, I think Mr J went ahead with the repair, aware that his dishwasher was no longer under warranty and that there would be a charge for the repair. Although I understand he hoped and asked for this to be waived – there had been no confirmation that it would be.

I should point out that these types of machines often come with a warranty of around two years (so parts and labour for breakdowns are covered) and then customers can purchase extended warranties for a set number of additional years. If M was guaranteeing these products for 20 years without them ever needing to be maintained or repaired during the 20-year period, as Mr J appears to be arguing, there would be no need for additional warranties to be provided and purchased by consumers.

Summary

As explained above, I can only assess Mr J's complaint, on a narrow basis – whether there is a breach of contract or misrepresentation that M made that CCF would now be responsible for. And I don't think it was unreasonable for CCF to conclude that there is insufficient evidence here to support either claim.

Overall, I don't think there's sufficient evidence that there's been a breach of contract or misrepresentation. So, I don't think CCF acted unfairly for declining this claim. While I am sorry to hear Mr J is unhappy, with s.75 in mind, I don't find there are grounds to direct CCF to cover the cost of the repair. I understand M has offered Mr J a discount on the invoice for the repair and he may wish to contact M to pay the discounted invoice. But I don't think CCF is liable to offer any further remedies in this case.

I should, however, point out Mr J doesn't have to accept this decision. He's also free to pursue the complaint by more formal means such as through the courts.

My final decision

For the reasons given above, my final decision is that I do not uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 5 June 2025.

Asma Begum
Ombudsman