

## **The complaint**

Miss T complains that NewDay Ltd hasn't refunded all of her losses relating to a claim she made under section 75 of the Consumer Credit Act 1974 ("section 75").

## **What happened**

In early 2022, Miss T paid for building works to her property to be completed by a company (who I'll refer to as "V"). She paid for this work using her NewDay credit card. Miss T says she asked V if they could recommend someone to also complete work on her Kitchen. Miss T then contacted the contractor recommended by V (who I'll refer to as "K") and she agreed a separate contract with him for work to be completed on her kitchen.

Miss T says she later discovered that K was a close relative of those working for V and that this wasn't disclosed to her. She said V also regularly employed K to carry out work for them. She says V also arranged for K to pause on the kitchen work to assist with V's building work on Miss T's home without her consent.

Miss T complained to V and K about the standard of the work they had both completed. The relationship between V, K and Miss T deteriorated without an amicable resolution being found. Miss T then approached NewDay to make a claim under section 75. She wanted NewDay to cover the costs of putting right the poor work as well as covering a number of consequential losses.

NewDay agreed to pay for the remedial work and agreed to cover a number of other costs Miss T said she had incurred. However, Miss T said that NewDay should also reimburse her for some wood flooring that she says K, on behalf of V, stole from her property. NewDay didn't agree to cover that loss.

Our investigator didn't recommend the complaint be upheld. He was satisfied that NewDay had refunded everything it needed to and that it wasn't fair or reasonable to ask it to pay for the replacement of the wood flooring.

Miss T didn't agree, so the complaint has been passed to me for a final 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.

The general effect of section 75 is that if Miss T has a claim for breach of contract or misrepresentation against V, she can bring a like claim against NewDay. There are further criteria that also need to be met, but for completeness, I'm satisfied those are met here in relation to the contract with V.

NewDay has already refunded Miss T for the substantive part of her section 75 claim – the poor building works carried out by V. NewDay has no liability for the contract Miss T had with K for the kitchen work as Miss T did not pay for that contract using her NewDay credit card.

The issue left in dispute is the wood flooring that was allegedly stolen by K while he was carrying out work on Miss T's property.

Miss T says K took the wood flooring while working for V, not in his capacity as her kitchen contractor. She says he took the wood flooring without her consent and is seeking compensation of around £800 – which she says is the likely cost to replace the flooring that was taken.

There is a clear disagreement on the facts between Miss T, V and K about what happened concerning the wood flooring. V has said that Miss T's partner agreed for the flooring to be taken. Miss T says her partner didn't agree to it, and even if he had, it was not his flooring to give away nor was he party to the contract with V or K.

Miss T says that her version of events ought to be more persuasive than V's. She has supplied substantive evidence which she says demonstrates her good character and she says that V and its legal manager have a questionable reputation.

In reaching my decision, I want to make it clear that I've not placed any significant weight to anything V and its legal manager has said in relation to the wood flooring. This is because I'm satisfied, based solely on what Miss T has said, that it wouldn't be fair and reasonable to direct NewDay to cover the costs of her wood flooring. Nothing V or its legal manager has said would make any material difference to the conclusion I've reached.

The reason I'm persuaded NewDay has no joint liability under section 75 is that I'm satisfied there was an entirely separate contract involving the wood flooring for which NewDay had no involvement.

I've seen from Miss T's original complaint to NewDay that in relation to the wood flooring she said: “[K] approached my partner and offered to pay me £80 for the wood which he never has”, she also made a similar allegation directly to K in a written complaint to him: “you did not pay my partner the £80 that was agreed for the significant amount of wood you took”.

It therefore seems that Miss T entered into a separate negotiation with K to sell her wood flooring for an amount of £80. This did not form part of either the contract for the building works with V or the kitchen work with K. She agreed a price to sell the wood flooring to K and it is K's alleged failure to pay for that flooring under that new contract which Miss T is seeking redress for. As the agreement to sell the wood flooring was not part of the contract with V, NewDay would not be jointly liable under section 75 for any breach of contract in relation to that separate arrangement Miss T had.

While Miss T and K (whether on behalf of V or not) are in dispute about the £80 (or circa £800, as Miss T is now claiming for), this isn't something I can fairly say NewDay should have any liability for. This is because Miss T agreed a separate contract with K for the sale of her wood flooring which had nothing to do with NewDay. For this reason, I think NewDay has handled Miss T's section 75 claim and complaint fairly and it doesn't need to do anything else to put things right.

### **My final decision**

For the reasons given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss T to accept or reject my decision before 30 May 2025.

Tero Hiltunen  
**Ombudsman**