

## **The complaint**

Mrs J complains that Marks & Spencer Financial Services plc, trading as M&S Bank, won't refund to her the deposit that she paid for a bathroom installation.

## **What happened**

Mrs J agreed with a bathroom installation company in August 2024 that it would install a bathroom and she paid an initial deposit of £100 and then paid the balance of the deposit of £1,800 using her M&S Bank credit card later that month. The work was due to start in September 2024 but Mrs J says that the installer didn't show up on the agreed date, no installation work has been done on her bathroom and she cancelled her contract.

She had complained to the bathroom installation company and she then disputed the payment of £1,800 with M&S Bank. It made a chargeback claim to the bathroom installation company but it defended the claim. M&S Bank then considered a claim under section 75 of the Consumer Credit Act 1974 but said that it had been unable to establish a proven breach of contract or misrepresentation by the bathroom installation company. Mrs J complained to M&S Bank about its response to her section 75 claim but it said that its stance remained unchanged.

Mrs J wasn't satisfied with its response so complained to this service and she provided a timeline of what had happened. Her complaint was looked at by one of this service's investigators who, having considered everything, didn't recommend that it should be upheld. He was satisfied that it was reasonable for M&S Bank to conclude that pursuing the chargeback claim any further wouldn't have had any reasonable prospect of success and he wasn't satisfied that M&S Bank had any basis to uphold Mrs J's section 75 claim.

Mrs J didn't accept the investigator's recommendation and has asked for her complaint to be referred to an ombudsman for a decision. She says, in summary, that: tile removal was included in the original quote; the one day delay wasn't communicated and caused financial loss; the installer misrepresented responsibilities to her electrician; and there was a pattern of dishonesty and poor conduct.

## **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.

If a consumer disputes a credit card payment, there are two ways that I would expect the card issuer to respond to the dispute: a chargeback claim and a claim under section 75. Mrs J disputed the payment of £1,800 that she'd made to the bathroom installation company and M&S Bank made a chargeback claim. The chargeback claim was defended by the bathroom installation company and, on the basis of the information provided in that defence, I consider that it was fair reasonable for M&S Bank to conclude that pursuing the chargeback claim any further wouldn't have had any reasonable prospect of success.

M&S Bank then considered Mrs J's claim under section 75. 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 J's complaint about M&S Bank, I must be satisfied that there's been a breach of contract or misrepresentation by the bathroom installation company and that M&S Bank's response to her claim under section 75 wasn't fair or reasonable (but I'm not determining the outcome of Mrs J's claim under section 75 as only a court would be able to do that).

Mrs J paid £100 of the deposit to the bathroom installation company on 20 August 2024 and I consider that her contact with the bathroom installation company was made at that time. Mrs J says that the payment was made to secure an installation date and that the contact wasn't made until she paid the £1,800 to the bathroom installation contract but I don't agree that that's a correct interpretation of when the contract was made. Mrs J had 14 days to cancel the contract without charge but I consider that that cancellation period had ended before she cancelled the contract so she wasn't entitled to a refund of the deposit that she'd paid. The bathroom installation company said that it had ordered all the materials for the job and they were due for delivery but it put the delivery on hold.

I've carefully considered Mrs J's timeline of what had happened, her email correspondence with the bathroom installation company, the order form and the contract and the other available evidence, and having done so, I'm not persuaded that there's been a breach of contract or misrepresentation by the bathroom installation company. I'm not persuaded that there's enough evidence to show that the contract included removal of the wall tiles or that any delay to the start of the work was a material breach of contract that justified cancellation of the contract.

The bathroom installation company made it clear to Mrs J that she would lose her deposit if she cancelled the contract but Mrs J confirmed that she no longer wanted to proceed with the work. I'm not persuaded that there's enough evidence to show that there was a pattern of dishonesty by the bathroom installation company or any poor conduct that justified cancellation of the contract.

I consider that Mrs J cancelled the contract outside of the cancellation period, having been told that she would lose her deposit, and I'm not persuaded that there's been a breach of contract or misrepresentation by the bathroom installation company for which M&S Bank would have any liability to Mrs B under section 75. I consider that M&S Bank's response to Mrs J's section 75 claim was fair and reasonable in the circumstances. I find that it wouldn't be fair or reasonable for me to require M&S Bank to refund the deposit of £1,800 to Mrs J, to pay her any compensation or to take any other action in response to her complaint.

**My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J to accept or reject my decision before 4 September 2025.

Jarrold Hastings  
**Ombudsman**