

The complaint

Miss P complains that she did not receive goods in respect of a credit agreement she took out with EE Limited trading as EE ('EE').

What happened

The parties are familiar with the background details of this complaint – so I will briefly summarise them here. It reflects my role resolving disputes with minimum formality.

Miss P took out a fixed sum loan with EE for a phone in January 2025. However, she says the phone wasn't in the box which was delivered on 3 February 2025.

EE investigated and was satisfied the phone was delivered to Miss P.

Miss P escalated a complaint about this matter to this service. Our investigator upheld it but EE disagreed. As a result the matter has been escalated 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.

While I might not comment on everything (only what I consider key) this is not meant as a discourtesy to either party – it reflects my role resolving disputes with minimum formality.

The agreement in this case is a regulated consumer credit agreement. As such, this service can consider complaints relating to it. Here I consider the subject matter of this complaint is essentially whether it is fair and reasonable for EE to seek payment under the credit agreement for goods which Miss P says were not supplied. After considering this matter carefully I don't think it is fair for EE to do so. I will explain why.

Miss P says the phone did not arrive – but she does not dispute the box arrived. This makes the matter more complex – as usual parcel tracking covers whether the box was received, and usually not the contents. With this in mind – my role here is not to definitively say whether the phone was in the box delivered to Miss P. Without being there when the box was physically opened I cannot say for certain. However, I can make an on balance finding based on the evidence presented by the parties.

In this case I consider Miss P has provided:

- credible and consistent testimony about the events transpiring when the box arrived and she found the phone missing from it (in which she explains when she received the box from the courier, she was surprised by how light weight it was – and when she opened it shortly after she only found a phone case and SIM card);
- evidence to show she called EE to report this almost immediately after the delivery was made – an action consistent with her testimony;

- evidence to show she reported the incident to the police – something she would be less likely to do if she was making a false claim;
- information to show the weight of the phone, phone box, shipping box and accessories are likely in excess of the weight stamped on the mailing label, posing questions over how reliable this is as an indicator that the phone was in the box from the outset.

I also note here that EE:

- has provided a single blurry picture of the box being delivered – which is not persuasive in showing that the integrity of it was not compromised in some way previously;
- has not provided persuasive evidence to show if, where and when the phone was activated;
- has not produced persuasive evidence to show the phone was likely in the box during the packaging stage or what verification checks are made to ensure the weight printed on the mailing label is an accurate reflection of its contents;
- failed to produce a credible audit trail of weight checks of the box during its journey (apparently the courier carries out daily weight checks which Miss P asked EE about but was not given further information regarding) – which would go some way to showing the phone was likely present in the box when it left the warehouse and shortly before it was handed to Miss P.

I want to emphasise that one of the key issues here is the lack of supporting information which EE has provided to show the goods were likely not tampered with before the box was delivered to Miss P. This has been requested of it and I think EE is reasonably in a position to provide this. I acknowledge EE has said it operates 'the highest level of security'. But without producing credible audit information relating to Miss P's package to back it up means, as a decision maker I have less persuasive information to conclude it more likely than not the phone was in the box delivered to her.

I note our investigator has come to a similar conclusion to me, but EE has responded simply saying it has a lot of concerns about 'the context' of what our investigator said without providing further details to explain its position. This lack of persuasive rebuttal to our investigator's view factors into my reasoning here – and considering what I have already said above I conclude it would not be fair and reasonable for EE to seek repayment from Miss P under the fixed sum loan agreement for the phone.

I also note EE initially mistakenly raised the wrong type of claim when Miss P reported the matter which led to delays with the outcome and unnecessary frustration for her. I also think that EE could have taken further steps to obtain information that Miss P says the courier told her it obtains (such as daily weight checks) which she considers would have helped her case. I appreciate these sorts of investigations are not straightforward, but in the circumstances I think that EE should pay Miss P some compensation too for distress and inconvenience. Miss P has explained how the matter has impacted her and after considering the information available on our website about the type of compensation awards we make I think that £100 is sufficient here.

Putting things right

EE should put things right as I have set out below.

My final decision

I uphold this complaint and direct EE Limited trading as EE to:

- Cancel the loan agreement with no further liability under it for Miss P;
- refund Miss P any payments she has made under the loan to date;
- pay 8% simple interest per year on any refunds from the date of payment to the date of settlement;
- ensure that there is no adverse information in respect of this agreement on her credit file (this may mean EE simply removes all details of the loan); and
- pay Miss P £100 compensation.

If EE considers it must deduct tax from my interest award it should provide Miss P with a certificate of tax deduction.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 17 December 2025.

Mark Lancod
Ombudsman