

The complaint

Mrs L complains about the way Santander UK Plc handled her request for a refund.

What happened

Mrs L paid for the installation and supply of 'luxury vinyl tiles' ('LVT') flooring (the 'flooring') from a business I'll refer to as 'T'. She paid £7,621, part paying for this using her Santander credit card. The flooring was fitted in November 2023 but in, or around May 2024, Mrs L began complaining to T about scratches that began to appear on the flooring. After complaining to both T and the manufacturer (I'll refer to this latter party as 'M'), Mrs L approached Santander to make a claim under section 75 ('section 75') of the Consumer Credit Act 1974 (the 'CCA'). But Santander said it wasn't liable. Mrs L arranged for an expert to look at the flooring and assess the scratches (i.e. damage) but after reviewing the contents of the expert's report (the 'report'), Santander maintained it wasn't liable under section 75. So, Mrs L complained and when Santander maintained its position, she referred her complaint to us.

In brief, our investigator didn't think Santander acted incorrectly by not accepting liability. Mrs L disagreed with the investigator's view and I issued a provisional decision explaining why I wasn't intending to uphold the complaint providing additional reasoning to that of our investigator. Mrs L disagreed with my provisional findings, so the matter has been passed back to me to finalise.

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.

Before I set out my reasoning for this decision, I want to once again reassure both parties that I've read and reconsidered everything. However, I'm only referring to matters which I think are relevant to my decision. This is not meant as a discourtesy to either party. It just reflects my informal remit. It's also worth noting at the outset that Santander is not the supplier/installer of the goods. So, when looking at what is fair, I consider its role as a provider of financial services only.

I note Mrs L's comments in response to my provisional findings some of which I refer to below. And I'm sorry to hear about her ill-health. However, as far as her complaint is concerned, I don't think she has added anything substantially new in terms of her case against Santander. I appreciate Mrs L wants answers to all her questions but as noted above, I'm only going to refer to matters which I think are relevant to this decision. I've considered everything she's sent to us. My decision remains that I don't uphold the complaint. I'll explain why.

As Mrs L used her credit card to pay for the flooring in dispute, I consider the protections of chargeback and section 75 of the CCA to be particularly relevant here. However, from what I can see, Mrs L's claim was referred too late for a chargeback to be raised – under the relevant chargeback schemes (Visa or Mastercard), the timeframe for bringing such claims for goods not as described/defective is 120-days from the date of receipt. Here, Mrs L's

claim was referred to Santander well beyond this timescale. So, I don't think Santander acted unfairly or unreasonably for focusing on a claim under section 75.

Turning now to Mrs L's section 75 claim, in reaching my decision I've taken into account all relevant law including the implied terms under the Consumer Rights Act 2015 (satisfactory quality, misdescription etc). I should note at the outset that our investigator has said (which Santander also said in its submissions), the financial conditions for bringing a section 75 claim hadn't potentially been met in this case. But I think it's arguable that given the sales invoice refers to both the 'supply and fit' of the flooring, this can be considered one 'item' as defined by the CCA (albeit there isn't much case law on this point). And given the total cash price paid by Mrs L for the flooring (supply and installation) was £7,621, I think the financial conditions of between £100 and £30,000, along with the other relevant requirements for bringing a section 75 claim, have likely been met. However, as I don't think this ultimately impacts on the outcome of this case, I won't consider this point any further here.

In any event, Santander told Mrs L the reason it had declined her claim was because she hadn't provided sufficient evidence to show T was in breach of contract. And in large part this was because the independent expert report didn't support Mrs L's claim that the flooring wasn't of satisfactory quality. This expert was instructed (and paid for) by Mrs L. I note Mrs L says the photographs of the flooring should've been enough for Santander to accept liability under section 75. But I don't think the photographs submitted by Mrs L, which do show the flooring area has scratches, which no one disputes is the case, is enough by itself to show breach of contract for unsatisfactory quality. This is because the damage could've been caused by other factors particularly as the scratches didn't appear for several months after the installation. So, I think it was fair and reasonable of Santander to ask for more evidence before it would be willing to accept liability.

To that end, as noted above, Mrs L arranged for an independent expert to assess the damage to her flooring area. The expert produced a report which made several observations including that: the scratching to the flooring was consistent with abrasive particles such as grit entering the property on outdoor shoes; the most significant scratches were in high-traffic areas; in terms of the installation the expert noted this was of a 'good and fair standard', meeting industry expectations for full-adhesion LVT installations; the expert carried out a 'scratch test' and a 'hardness test' both of which were marked as 'passed', meeting with relevant regulations; and there was no indication of a product defect. The expert concluded their report by saying that: *"The [M's] LVT flooring meets the necessary standards for scratch resistance and durability as stipulated by British and European regulations and recommended by the [relevant association]. The observed scratching are consistent with abrasive particles i.e. grit entering the property on outdoor shoes, with these environmental factors does not indicate a product defect"*.

So, based on the expert report findings and the fact they (the expert) weren't able to conclude there was, in fact, a defect at the point of sale, I don't think Santander acted unfairly or unreasonably when it concluded it wasn't liable under section 75. Mrs L says the expert was 'biased' because they (the expert) are a member of an association which is funded through fees from members such as M. And despite what the expert said, Mrs L says she took good care of the flooring. However, the expert declared the membership of this association with Mrs L at the outset. Further, they conducted a number of tests before reaching their conclusions. The expert was also instructed by Mrs L who paid for the report to be done. Taking all of these factors into account, I don't think Santander was acting incorrectly when it relied on the evidence presented to it by Mrs L.

I note that Mrs L also submitted more evidence following her complaint to this service which was forwarded to Santander. I can see Santander agreed to review this further evidence, but it said it wasn't changing its position in regard to the section 75 claim. This further

evidence included reviews from other customers via an online review website and also from a person Mrs L came into contact with via social media. Whilst I take on board the further evidence, I can't say this offers persuasive reasons to say Santander has acted incorrectly here (even allowing for the fact it wasn't presented with this evidence until after it had already considered Mrs L's claim). Mrs L says the person I referred to as her friend in my provisional decision, isn't someone she has met or knows personally so isn't a friend as such. But even taking this into account, unlike the expert, the person in question and other customers via the online reviews, aren't acting in a professional capacity and/or haven't personally inspected Mrs L's flooring.

I appreciate Mrs L says she has difficulty understanding how T are able to market the products they sell (which have been manufactured by M) as 'durable' and 'scratch resistant' when, in her view, the product she bought wasn't either of these things. To be clear, a misrepresentation is a statement of fact which isn't true. And whilst M (and T during the sales process) said its flooring is 'durable' and 'scratch resistant', these statements don't appear, on the face of it, to be untrue statements of fact. The expert said the flooring was durable and did meet scratch resistant industry standards. All in all, I can't say Santander acted unfairly or unreasonably for concluding it wasn't liable for a misrepresentation or breach of contract via the connected liability provisions under section 75 of the CCA.

I note Mrs L says I've discounted some of her submissions. But this isn't the case. I've taken everything into account including what she said she was told by T's salesperson pre-sale. I appreciate Mrs L says that the expert didn't use the correct testing methods. But as far as I can tell, the expert had a long history in the (flooring) industry and explained the tests carried out met with all relevant standards for that industry. I think Santander acted fairly and reasonably when taking the report into account when reaching its decision not to accept liability in this case.

So, for all the reasons set out above, whilst I know Mrs L will be disappointed with this outcome, I'm not upholding this complaint.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L to accept or reject my decision before 30 September 2025.

Yolande Mcleod
Ombudsman