

## The complaint

Mr C complains about a claim he made to Creation Consumer Finance Ltd (Creation) under Section 75 of the Consumer Credit Act 1974 (Section 75).

## What happened

On 18 October 2024, Mr C purchased two mobile phones from a retailer, who I'll call A. The total cost of the two items and delivery was £1,908.99. Mr C applied the charge to his running credit account with Creation which had been taken out a few days prior, on 13 October 2024.

In November 2024, Mr C decided to return the items. He arranged a return through A's returns system, which involved a well-known courier collecting the parcel to be returned from his home address.

Mr C then chased A for a refund. He was told that a refund would be issued via instant chat services. However, A later said it would not issue a refund as it had received an empty box. Mr C then brought his claim under Section 75 to Creation as he did not wish to make payments towards items which he says he returned.

Creation looked into the matter and issued a final response letter on 3 February 2025. It said it had contacted A who said the claim was rejected because the box had been empty when returned to it. Creation rejected the claim as the items had not been received back by A.

Mr C then brought his complaint to our service. He said A had arranged the return so it should be taking this up with the courier service. He said he was being blamed for a matter outside his control as he had returned the items. He said his credit score had declined along with his mental health and he would like the credit to be cancelled and his credit file to be cleared.

Whilst the complaint was with our service, Mr C remained in touch with A. It appears that it was arranged for the courier service to return the parcel to Mr C, who then organised another return. On 6 March 2025 he took the parcel to a drop-off point, which was around 420 miles from his home address. The courier service was to collect the parcel from there and return it to A.

Mr C says he was informed the parcel had been located and was being returned, and then he heard nothing further from A on the second return attempt. The information about whether A received the parcel from the second return attempt is unclear, but it seems likely that A did not receive it and asked the courier service to investigate the matter. The courier service looked into it and said it suspected suspicious activity, so it declined to look into the matter further. A and Creation maintained its positions as a result.

Our investigator reviewed matters and said based on the information available it seems A did receive the returned parcel in November 2024 on the first return attempt. The issue was that it said the box was empty. The information does not clearly suggest Mr C received the parcel back from the courier service in order to initiate a second return. And so based on the

information it had, Creation had acted fairly in declining the claim.

Mr C asked for an Ombudsman to review the complaint, so it has now 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.

I would like to start by saying that I have provided a brief summary of the events that occurred above. I intend no discourtesy by this and can assure both parties that I have taken all the information provided into consideration when reaching a decision on this complaint.

In this decision, I'll concentrate my comments on what I think is relevant. If I don't comment on a specific point, it's not because I've failed to consider it, but because I don't think I need to comment in order to reach a fair and reasonable outcome. Our rules allow me to do this, and this reflects the nature of our service as a free and informal alternative to the courts.

Section 75 allows – in certain circumstances - for a creditor (Creation) to be jointly and severally liable for any claim by the debtor (Mr C) of breach of contract or misrepresentation made by a supplier of goods and/or services (A). The issue here is whether A received a return of the goods and failed to process a refund or not, so the matter is one of breach of contract rather than misrepresentation.

On the matter of the first return, the issue is not with the courier service. Mr C says he returned the items, and A confirms receipt of the parcel but says it was empty. It confirmed there was no evidence of tampering with the parcel, and the returned items were not within. There is a distinct lack of detail on this complaint, however, based on what is available there is no information to suggest that A received the returned items within the parcel that was sent to it. There is also no information to suggest that the lack of items within the parcel was due to an error with the courier service or tampering on route. Therefore, based on the information available I don't find a successful argument for breach of contract can be made.

Turning to the second return, I agree with the investigator that there is a distinct lack of evidence showing us that the courier service then picked up the parcel from A and passed it back to Mr C for him to initiate a second return. There is also no explanation for why the drop-off location was so far from his home address. The courier service has its suspicions and A in turn, voiced the same suspicions to Mr C. I will not be commenting on that. But based on the information available to Creation about the second return, I don't find it unreasonable that it continued to decline the claim.

I appreciate this will be disappointing for Mr C, however there is not enough evidence to support a claim that the items were successfully returned to A and that Creation should in turn accept a claim for breach of contract. So, I do not find Creation has treated Mr C unfairly regarding his claim.

### **My final decision**

My final decision is that I do not uphold Mr C's complaint against Creation Consumer Finance Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 6 November 2025.

Vanisha Patel  
**Ombudsman**