

The complaint

Mr L is unhappy with how MBNA Limited (“MBNA”) handled a claim he made about a transaction on his credit card.

What happened

The parties are familiar with the background of this complaint, so I will summarise here, which reflects my informal remit.

Mr L purchased a sliding shower screen on 23 January 2025 from a retailer I will refer to as B, for £210.44. The item was delivered on 25 January and left outside Mr L’s property as he was not home. Mr L said he brought the item into the house when he returned and arranged for his builder to install it at the earliest available opportunity.

As Mr L was travelling abroad, the earliest installation date was 27 February 2025, when he returned from his travels. Mr L said that on this date, when the cardboard packaging was opened, one of the glass panels was found shattered inside the bubble wrap within the packaging. Mr L said the broken glass was disposed of, but he kept hold of the remaining panels and contacted B.

B refused to provide a refund, explaining that the damage had been reported more than a month after delivery, instead of the five-day timeframe as set out in its terms and conditions. B also said there was no evidence that the goods had been damaged prior to delivery.

Unable to resolve this with B, Mr L contacted MBNA. MBNA raised a chargeback, but this was defended by B, on the basis that Mr L had reported the damage more than a month after delivery which was not in line with its terms and conditions. Mr L subsequently raised a claim under Section 75 of the Consumer Credit Act 1974 (“Section 75”). MBNA said as Mr L hadn’t reported the damage in line with B’s terms and conditions, and as there was no evidence of a breach of contract or misrepresentation by B, it was unable to pursue the claim under Section 75.

When Mr L referred the case to our service, an investigator reviewed the case but didn’t uphold it. In summary, the investigator said the chargeback had been appropriately considered, and that MBNA didn’t act unfairly in deciding not to pursue the chargeback further, given B’s defence. The investigator also said that because of the delay in opening the package, there wasn’t sufficient evidence to conclude that the damage occurred at, or before, the point of delivery. As the damage was also reported more than five days after delivery, the investigator concluded that there had been no breach of contract.

Mr L disagreed with the outcome. He said that The Consumer Rights Act 2015 (“CRA”) stated that a retailer must repair or replace an item if a customer returned it within six months - unless the retailer could prove it was not faulty at the time of purchase. Mr L said that B had refused to accept a return, within six months of purchase, and had not proven or attempted to prove, that the item was not faulty when it was supplied.

As Mr L remained unhappy the case has been referred to me to make 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.

Whilst I've read and considered everything, if I don't mention any specific point, it's not because I failed to take it on board and think about it, but because I don't think I need to comment on it to reach what I think is a fair and reasonable outcome. This is not meant as a discourtesy but rather reflects my role of resolving disputes with minimum formality.

I understand why Mr L is unhappy. He purchased a shower screen expecting it to be in good condition, and it was understandably disappointing to discover that one of the glass panels was broken when his builders attended to install it. I don't doubt that Mr L has experienced inconvenience and frustration as a result of what has happened.

However, in this decision, I am considering whether MBNA - as a provider of financial services - has acted fairly and reasonably in the way it handled Mr L's request for getting his money back. It's important to note MBNA isn't the supplier of the goods. I have gone on to consider the specific card protections available in these circumstances. In situations such as this, MBNA can consider assessing a claim under Section 75 or raising a chargeback.

Chargeback

The chargeback process provides a way for a card issuer to ask for a payment to be refunded in certain circumstances. The chargeback process is subject to rules made by the relevant card scheme, in this case VISA. It's not a guaranteed way of getting money back. While it's good practice for a card issuer to attempt a chargeback where certain conditions are met and there's some prospect of success, there are grounds or dispute conditions set by the relevant card scheme that need to be considered. If these are not met, a chargeback is unlikely to succeed. And something going wrong with a merchant won't always lead to a successful claim.

In this case, MBNA raised a chargeback under the dispute code *not as described or defective merchandise/service* which I consider was the most appropriate chargeback code in the circumstances.

However, B defended the chargeback, relying on its terms and conditions, which required any damage to be reported within five days of delivery. Mr L reported the damage over a month after delivery, which was outside the timeframe set out in those terms and conditions.

Given the delay in opening the package and reporting the damage, along with the defence provided by B, MBNA decided not to pursue the chargeback further. In order to challenge the defence and continue with the chargeback, MBNA would've needed clear evidence that the item arrived damaged, or that the damage was reported in line with B's terms and conditions. Based on the available evidence, I don't think MBNA had enough to be satisfied that this was the case, so I don't consider it was unreasonable for it not to pursue the chargeback further in the circumstances.

Section 75

Section 75 is a statutory protection that enables Mr L to make a like claim against MBNA for breach of contract or misrepresentation by a supplier paid by credit card in respect of an agreement it had with him for the provision of goods or services providing certain conditions are met first. For completeness, I'm satisfied those technical requirements are met here to raise the claim.

The CRA is also relevant to this complaint. The CRA implies terms into the agreement that the quality of goods is satisfactory. The CRA says that the quality of the goods is satisfactory if they meet the standard a reasonable person would consider satisfactory – taking into account the description of the goods, the price or other consideration for the goods (if relevant) and all other relevant circumstances.

It is not in dispute that the goods were delivered while Mr L was not at home and that the packaging was not opened or inspected at the time of delivery. As Mr L hasn't raised any concerns about the delivery arrangement itself, I make no findings on this point.

It's also not disputed that the goods remained unopened in Mr L's home for over a month before being checked. Mr L has explained that this was due to him being abroad and the availability of his builder. As a result, the damage was not identified until more than 30 days after delivery.

Mr L has referred to the CRA, which sets out that goods which do not conform to the contract at any time within the period of six months beginning with the day on which the goods were delivered to the consumer must be taken not to have conformed to it on that day, unless it's established the goods did conform to the contract on that day, or that the application is incompatible with the nature of the goods or with how they fail to conform to the contract.

While I am required to take relevant legislation into account, I must also consider all the circumstances of the case and decide what's fair and reasonable.

In this case I haven't been provided with compelling evidence to establish that the goods were damaged at, or prior to, delivery. While I appreciate the photographs Mr L has provided clearly show that one of the glass panels was broken, they do not demonstrate when or how the damage occurred. The goods also weren't inspected on arrival and remained in Mr L's possession for over 30 days before the damage was identified. During that time, the goods were stored in Mr L's home, and no evidence has been provided to show how they were stored or handled. In these circumstances, I am not persuaded that I can reasonably conclude that the damage was present at the point of delivery, rather than having occurred at some later point while the goods were in Mr L's possession.

I have also taken into account B's terms and conditions, which require damage to be reported within a specified timeframe. Although such terms may not override statutory rights, prompt inspection and reporting are relevant factors when assessing the likelihood of when damage occurred. Given the delay in inspection and reporting, and taking everything into account, I'm not satisfied, on the balance of probabilities, that the goods failed to conform to the contract at the point of delivery.

I appreciate that Mr L feels strongly about this matter, and I recognise that this outcome will be disappointing for him. But for the reasons, I've set out above, there is insufficient evidence to conclude, that the shower screen was damaged at the point of delivery, or that B breached the contract or made a misrepresentation. Therefore, I don't consider MBNA acted unfairly or unreasonably in declining Mr L's Section 75 claim.

I should point out that Mr L doesn't have to accept this decision. If he remains dissatisfied, he may wish to seek independent legal advice and pursue the matter through a formal channel such as the courts.

My final decision

I don't uphold Mr L's case against MBNA Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 4 February 2026.

Farhana Akhtar
Ombudsman