

## **complaint**

Mr T complains that Creation Financial Services Limited rejected his claim under Section 75 Consumer Credit Act in respect of furniture.

## **background**

In the autumn of 2015 Mr T bought three chairs and footstools at a cost of £5,100 from a retailer I'll call M. After some eight months Mr T complained that the chairs had sticky patches. They were inspected by two independent inspectors neither of whom could identify a manufacturing fault. Mr T also complained that he received a different type of leather to the one he had expected. M said the manufacturer was changing from one to the other and so the invoice had stated it could be either. Mr T checked with the manufacturer and it told him that it offered both types of leather.

Creation rejected Mr T's claim and his complaint and so he brought the matter to this service. It was investigated by one of our investigators who didn't recommend that it be upheld. She couldn't say that there had been a breach of contract. She noted neither of the two independent reports on the furniture identified a manufacturing fault. The first report stated that the leather wasn't damaged and the second report stated there was no fault.

She considered the point Mr T raised about the sale of the leather. In particular, where he had questioned which leather he would receive and the fact he had been told they were the same. The investigator noted the sales receipt says leather will be one type or the other and as such she couldn't say the furniture had been misrepresented.

Mr T didn't agree and said the two reports were different and so he had no faith in their findings. He also pointed to the fact the retailer had misled him about one of the leathers being discontinued by the manufacturer.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

My role isn't to decide whether or not Section 75 applies here. Rather, I'm required to decide what, if anything, Creation should do to resolve this complaint. In doing that, I must decide what I think is fair and reasonable, having regard to (amongst other things) any relevant law. Relevant law includes Section 75.

I have noted the differences in the two independent expert's reports and I am not persuaded that these are such that I can discount their findings. Both conclude that the problems were not due to manufacturing faults and that makes it difficult for me to conclude that there has been a breach of contract. I appreciate that Mr T has other leather furniture that hasn't suffered the same problems and that the footstools have been unaffected, but I don't consider that is sufficient to allow me to overrule the findings of independent experts.

It's regrettable that M told Mr T that the manufacturer was moving from one leather type to another when this is not the case, but the invoice states that the chairs will be in one of two types of leather. The furniture he bought was one of these two types and as such I can't say that this amounts to misrepresentation.

I appreciate that Mr T will be disappointed with my decision, but I am unable to uphold his complaint.

**my final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 13 February 2017.

Ivor Graham  
**ombudsman**