

## **complaint**

Mr J complains that he didn't sign a loan agreement with Clydesdale Financial Services Limited, trading as Barclays Partner Finance, and didn't agree that a kitchen would be provided to him on credit. And he's complained about some issues with the kitchen. He's being helped with his complaint by his wife.

## **background**

Mr J and his wife went to a kitchen supplier in May 2015 and agreed for a new kitchen to be supplied and fitted at their home. They say that the cost of the kitchen was £20,774.61 but the sale price to them was £10,391.49 – and that they paid a deposit of £987.10 using a credit card. And they say that they paid a further £1,000 to reduce the outstanding amount in August 2015.

The kitchen was installed but they had lots of problems with it and they're still dealing with the kitchen supplier about those issues. They say that they received a letter from Barclays Partner Finance about a fixed sum loan agreement in June 2017 – and that was the first that they'd heard about a loan agreement with Barclays Partner Finance. Mr J complained to Barclays Partner Finance and said that he hadn't signed a credit agreement or agreed that the kitchen would be supplied to him on credit. Barclays Partner Finance contacted the kitchen supplier about the issues with the kitchen. But it says that Mr J told it that he didn't want any further remedial work completed by the kitchen supplier so it said that it was closing the claim that had been made under section 75 of the Consumer Credit Act 1974. But it did say that it was crediting £50 compensation to Mr J's bank account because of the distress and inconvenience that he'd been caused. Mr J wasn't satisfied with Barclays Partner Finance's response so complained to this service.

The investigator didn't recommend that this complaint should be upheld. He didn't think it would've been reasonable to expect the sale of a kitchen without signed documentation confirming how the purchase would be made. And he said that there's a loan agreement with Mr J's signature on it and he didn't have enough to say that the signature wasn't valid.

Mr J has asked for his complaint to be considered by an ombudsman. He says, in summary, that he's tried to resolve this matter with the kitchen supplier but has been unsuccessful. So he's made a section 75 claim to Barclays Partner Finance but it's declined the claim so he's now appealing to this service about that decision. He's provided a report from a kitchen installation specialist about the issues with the kitchen.

## **my findings**

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

Mr J says that he didn't agree to the kitchen being supplied to him on credit and that he didn't sign a loan agreement. But there doesn't seem to be any dispute that he and his wife agreed with the kitchen supplier that a kitchen would be supplied to them and fitted and that they would pay £10,391.49 for the kitchen. They paid a deposit of £987.10 for the kitchen and then made a further payment of £1,000 in August 2015 but they've provided no other evidence to show the arrangement that they'd made with the kitchen supplier to pay for the kitchen. And I don't consider it to be likely that the kitchen supplier would've agreed to supply and fit the kitchen unless payment arrangements had been agreed.

Barclays Partner Finance has provided a copy of a fixed sum loan agreement which has Mr J's signature on it and which is dated in August 2015. It has also provided a copy of an introductory letter that it says was sent to Mr J and with which the agreement was enclosed. Mr J says that his signature must've been added to the agreement. But I consider it to be more likely than not that he signed the agreement in August 2015 and agreed to the kitchen being supplied to him on credit.

The agreement sets out the cost of the kitchen which was £10,391.49 - from which the deposit and payment of £1,000 has been deducted. And it says that Mr J was to make 60 monthly payments of £253.60 with the first payment being due twelve months after the date that Barclays Partner Finance made payment to the kitchen supplier. Barclays Partner Finance says that the kitchen was delivered in September 2015 and Mr J's account was activated in July 2016 so the first payment became due in July 2017. It says that it didn't receive a signed satisfaction notice before the account was activated as there was no requirement for one. It says that the loan terms and conditions state: *"... After we have accepted and signed this agreement and you have received the goods or services, we will pay the loan amount to the retailer..."*.

But it says that as a gesture of goodwill it extended the buy now – pay later period until January 2018. That was more than 13 months after Mr J's direct debit had been set up and, as it hadn't been used within that time, his bank cancelled the direct debit. And Barclays Partner Finance says that no repayments have been received from Mr J so it's recorded adverse information on his credit file.

As I consider it to be more likely than not that Mr J did sign the loan agreement and that he did agree to the kitchen being supplied to him on credit, I consider that he's liable for the payments due under the agreement. I'm not persuaded that there's enough evidence to show that Barclays Partner Finance has acted incorrectly in connection with the agreement.

Mr J and his wife have complained about some issues with the kitchen. The kitchen supplier arranged for the kitchen to be inspected by a field installation manager and a report was produced which identified a number of issues with the kitchen. Barclays Partner Finance says that the kitchen supplier offered to replace some of the items but that required some further some works to put things right. And it says that Mr J declined those works due to the upheaval that would be caused and that he asked for an offer to keep the kitchen as it was.

The kitchen supplier offered to refund £767.93 to Mr J for the issues with the kitchen and Barclays Partner Finance says that Mr J told it that he was negotiating the compensation with the kitchen supplier and that the kitchen supplier had said that the complaint would be referred to the furniture ombudsman. And it says that Mr J wanted to deal with those issues through the kitchen supplier and that he was happy for Barclays Partner Finance to close his section 75 claim. So it did so and it said in its final response letter in October 2017 that it had closed his section 75 claim as it was unable to keep a claim open for compensation disputes and that: *"... if you change your mind and would like us to assist you with this matter please do not hesitate to contact us"*. And it said that it was crediting £50 compensation to Mr J's bank account because of the distress and inconvenience that he'd been caused.

Mr J and his wife arranged for the kitchen to be inspected by a kitchen installation specialist. And the specialist's report – dated in December 2018 – identifies a number of issues with the kitchen. But I'm not persuaded that there's enough evidence to show that Mr J provided that report to Barclays Partner Finance or that he's asked it to re-open his section 75 claim.

In certain circumstances, section 75 gives a consumer an equal right to claim against the supplier of goods or services or the provider of credit if there's been a breach of contract or misrepresentation by the supplier. To be able to uphold Mr J's complaint about Barclays Partner Finance, I must be satisfied that there's been a breach of contract or misrepresentation by the kitchen supplier and that Barclays Partner Finance's response to his claim under section 75 wasn't fair or reasonable. I'm not determining the outcome of Mr J's claim under section 75 as only a court would be able to do that.

I'm not persuaded that Barclays Partner Finance's response to Mr J's claim has been unfair or unreasonable. It's clear that Mr J still has issues with his kitchen. But if he now wants Barclays Partner Finance to consider his claim about those issues under section 75 and to re-open his section 75 claim he should contact Barclays Partner Finance and ask it to do so. And then, if he's not satisfied with its response, he may be able to complain to this service about its response.

But to be able to re-open his section 75 claim, I consider that he must accept that he's liable to Barclays Partner Finance under the agreement and that he should either clear the arrears on his account or try to agree a repayment plan with Barclays Partner Finance for those arrears. If he's suffering financial difficulties, Barclays Partner Finance is required to respond to those difficulties positively and sympathetically.

I'm not persuaded that there's enough evidence to show that Barclays Partner Finance has acted incorrectly in its dealings with Mr J about the kitchen installation and his loan agreement. And I find that it wouldn't be fair or reasonable in these circumstances for me to require it to pay any further compensation to Mr J or to take any other action in response to his complaint.

### **my final decision**

For these reasons, my decision is that I don't uphold Mr J's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 7 July 2019.

Jarrold Hastings  
**ombudsman**