

complaint

Mr K complains that a caravan purchased with finance from Clydesdale Financial Services Limited (trading as Barclays Partner Finance) ("BPF") wasn't of satisfactory quality. He also complains that the agreement was mis-sold.

background

In October 2017 Mr K was supplied with a static caravan and entered into a conditional sale agreement with BPF. The finance was arranged by another company ("W") who also run the site where the caravan is based.

Mr K says he was told prior to entering into the agreement that the caravan had been fully inspected and that it was fit for purpose. However, on his first visit a few days after purchase, Mr K found that the sink was cracked, the paving stones surrounding the caravan were cracked and the shower was faulty. He could also feel a draught coming in through the windows.

Mr K reported the issues to W who arranged for the sink to be replaced and told Mr K that the paving slabs and shower would be fixed. W said it couldn't find a fault with the windows.

Mr K used the caravan again in February 2018. When he turned on the water he found that there was a leak from the boiler pipe. He reported the fault to W, who provided Mr K with details of a plumber.

Mr K arranged for the plumber to repair the boiler pipe. He says the plumber also fixed the shower as this hadn't been fixed by W. In April 2018 Mr K received the plumbers invoice. Because the repairs had been needed so soon after he had purchased the caravan, Mr K asked W to reimburse him. W refused and Mr K made a complaint.

W responded to the complaint and said the reasons for the boiler leaking was because the water hadn't been drained down during the winter months which had caused the pipe to burst in the cold weather. W said it was Mr K's responsibility to make sure the caravan was drained down.

Mr K visited the caravan again in May 2018 and found that the bathroom radiator was leaking. He complained to BPF and asked to reject the caravan.

In its final response, BPF said it had been advised by W that the damage was as a result of the caravan not being drained down properly. It said it would ask W to investigate the leaking radiator.

Mr K wasn't happy with BPF's response and complained to this service. He said he wanted to reject the caravan as it wasn't fit for purpose. He said the windows were still draughty, the radiator still leaked and the paving slabs hadn't been repaired properly. He also said he believed the caravan had been mis-sold because he hadn't been provided with accurate information about the running costs. In particular, Mr K said he hadn't been told at the time of entering into the agreement that he needed to have the caravan professionally drained down every time he used it during the winter. Mr K said if he'd been made aware of this he wouldn't've entered into the agreement because it was his stated intention to use the caravan regularly during the winter and he wouldn't be able to afford the costs associated with doing so.

Our investigator didn't uphold the complaint. She said that because the caravan was approximately 10 years old at the point of supply, it was reasonable to expect that some parts of the caravan would have been subjected to wear and tear. She said that although the sink was cracked at the point of supply, W had brought the caravan up to satisfactory quality by replacing it. In relation to the boiler pipe, the investigator was persuaded by the plumber's evidence and thought that the damage had been caused because the water hadn't been drained down properly. The investigator said she wasn't able to say that there'd been a misrepresentation because there wasn't sufficient evidence to show that W had made a false statement about the running costs and specifically about the need to drain down the water. The investigator concluded that the caravan was of satisfactory quality at the point of supply and that the agreement hadn't been mis-sold.

Mr K didn't agree. He said it wasn't acceptable for a caravan to have so many issues within the first 6 months and that it had cost him over £1000 in repairs. He said he hadn't been made aware of the need to have the caravan professionally drained down. Mr K said he wanted his site fees waived for 2019 because he hadn't been able to use the caravan as a result of all the issues.

my findings

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

Satisfactory quality

Because BPF supplied the caravan under a conditional sale agreement, there's an implied term that it is of satisfactory quality. A caravan is of satisfactory quality if it is of a standard that a reasonable person would regard as acceptable, taking into account factors such as price paid, fitness for purpose, appearance and finish, freedom from minor defects, safety and durability.

I would expect a second hand caravan, such as that supplied to Mr K, to have a degree of wear and tear commensurate with age.

Under the Consumer Rights Act 2015, where a fault is found within the first 6 months, its generally up to the business to put things right. The business is allowed one attempt to repair the fault. If the repair isn't successful, the consumer can reject the goods.

In this case, I can see that Mr K complained about four issues during the first 6 months. These were:

- Cracked sink
- Faulty shower
- Cracked paving slabs
- Draughty windows

As I've said above, I would expect to see a degree of wear and tear in a 10 year old caravan. All of the issues above, whilst undoubtedly frustrating for Mr K, are, in my view, wear and tear issues. The crack in the sink could be called a fault, particularly if it prevented the sink

from being used. In any event, I can see that W replaced the sink straightaway, which is what I would have expected it to have done. I haven't seen anything to suggest that there are any ongoing issues with the sink, so I'm of the view that the repair to the sink was successful I don't think the cracked sink is a ground for rejection because its been successfully repaired.

With regards to the shower, the cracked paving slabs and the draughty windows, I think these are wear and tear issues. It's inevitable that wear and tear issues will require attention with a caravan of this age. I understand how disappointed Mr K was when he discovered these issues at the point of supply but I'm unable to say that these are faults which render the caravan of unsatisfactory quality or which BPF should be responsible for.

The next issue experienced by Mr K was a leaking boiler pipe. This also happened within the first 6 months. I've looked at the available information to decide whether this was a point of supply fault.

Mr K hasn't said that the boiler pipe was leaking when he first visited the caravan. He discovered the leak in February 2018 when he turned on the water. It's fair to assume that the issue developed when Mr W wasn't at the caravan during the winter months.

The plumber who repaired the boiler pipe for Mr K has stated that the damage was caused because the water hadn't been drained down. I appreciate that Mr K has said that he turned off the mains water outside and opened the taps inside the caravan. I've also taken into account Mr K's comments that he believes the plumber isn't truly independent because he's contracted to do work on caravans at W's site generally.

I've considered what the plumber has said. He stated that all of the issues he repaired were related to the cold weather and the water not being drained down. On balance, I think it's more likely than not that Mr K didn't drain the water down on one of the occasions when he visited the caravan in the winter months. I've no reason to disbelieve the plumber's professional opinion as to the cause of the damage. I'm satisfied that the damage to the boiler was caused by a lack of maintenance in not draining the water down, and not as a result of a point of supply fault. It was Mr K's responsibility to drain the water down so I can't hold BPF responsible for the damage or the costs of repairing the damage.

Mr K also experienced issues with a leaking radiator in May 2018. He says this hasn't been addressed by W. W has said it wasn't made aware of the issue until January 2019. It has confirmed that the issue – which was caused by a loose valve which needed tightening – was repaired during the caravan inspection in April 2019. It says it hasn't charged Mr K for this repair.

I can see that Mr K told BPR about the leaking radiator in May 2018. It's clear that there's been a breakdown in communication, as BPR told Mr K it would ask W to investigate the radiator. It appears that this didn't happen as quickly as it should have done. It shouldn't have taken so long for W to look at the leaking radiator. That said, I can't see that this issue has prevented Mr W or his family from using the caravan since May 2018. Information provided by W shows that the utilities at the caravan have been used during the period May 2018 to April 2019 and that gas and electricity bills have been paid.

Taking everything into account, I'm unable to say that the caravan wasn't of satisfactory quality. Save for the sink which was replaced, the issues experienced by Mr K are due to wear and tear and, in the case of the boiler pipe, a failure to drain down the caravan.

Misrepresentation

In order to find that there has been a misrepresentation, I would need to be satisfied that a false statement has been made which induced Mr K into entering the contract.

Mr K has said that he wasn't told that the water needed to be professionally drained down every time he used the caravan in winter. He says if he'd been told this he wouldn't've gone ahead with the purchase because the running costs would've been unaffordable for him.

I've seen an email which was sent to all caravan owners by W which emphasises the importance of draining down the caravan in the winter months. The email has a pdf attachment which gives advice to caravan owners on how to do this themselves. The email also says that there is a firm of plumbers who can do this task if owners prefer.

Mr K has said that this email was sent after he entered into the agreement. He also says that the advice in the email about draining down is different to the advice he was given at the time he entered into the agreement. He says the cost of having the water professionally drained down wasn't mentioned at the point of supply.

I can't be certain of whether Mr K was told about the option and costs of a professional drain down service at the time of entering the agreement. But I don't think this matters, because it's clear from the information provided that the professional drain down service is optional. There's no obligation for Mr K to engage the services of a plumber to drain down the caravan. This is supported by Mr K's actions in draining down the caravan himself. And he acknowledged that he was given advice by W on how to do this.

I haven't seen any evidence which suggest that the business made a statement which wasn't true. Mr K says he wasn't told about the costs of having the caravan professionally drained down and says that if he had been he wouldn't have entered into the contract. But as I've said above, there was no obligation to use a plumber, so it wasn't a cost that Mr K would have had to factor in even if it had been discussed.

Based on what I've seen, I don't think there's been a misrepresentation.

I'm sorry to hear that Mr K hasn't been able to enjoy the experience of owning a caravan as much as he'd hoped. But for the reasons I've given, I'm not persuaded that the caravan was of unsatisfactory quality or that the agreement was mis-sold.

my final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 20 December 2019.

Emma Davy
ombudsman