

complaint

Mr E complains that he was misled into purchasing a new boiler. The boiler was purchased using a fixed sum loan with British Gas Services Limited ('British Gas'). Mr E brings his complaint under section 75 of the Consumer Credit Act 1974.

background

Mr E says that a gas engineer visited his home when his central heating stopped functioning.

He says that he was told that he would need a new boiler to fix the problem. He agreed to this and signed up to a fixed term loan with British Gas to finance it.

Mr E says that after the installation of the new boiler his heating was still not functioning. He has since learnt that this is due to the pipes in the property. Mr E says he would not have paid for a new boiler if he knew that the issue was down to his pipework. He says that his main aim was to get his heating working at the most cost effective price. Mr E says that during his visit the gas engineer did not offer him anything other than a new boiler.

British Gas would not refund Mr E for the boiler but agreed to fix the pipes for 50% of the usual cost. In summary, it says that Mr E was informed that he may have to pay for the pipe work and that he chose to purchase a boiler instead. It says that he wanted to stagger the purchases due to the overall cost involved.

Our adjudicator recommended this complaint be upheld. Based on the evidence he was not persuaded that the boiler needed replacing. He found it unlikely that Mr E would have chosen to purchase a new boiler at the start of winter if he was aware it would not fix his problem and that the issue could have been resolved more cheaply.

Mr E has now paid for the work on the pipes to fix his heating. Our adjudicator has recommended that British Gas cancel the credit agreement for the boiler and refund him any payments that he has made on it so far.

British Gas disagrees with this. In summary, it says that Mr E accepted the quotation for the boiler fully aware of the fact that he would have to pay extra for pipework. It says that Mr E's boiler is on a reduced parts list, which is a substantial reason for replacing it.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Where there is a dispute about what happened I make my findings on the balance of probabilities – which is to say, what I find most likely to have occurred based on the available evidence and wider surrounding circumstances.

To make a finding of misrepresentation I have to be satisfied that Mr E was told a false statement which caused him to enter into a contract he would not otherwise have entered.

I find Mr E's submissions about his initial meeting with the gas engineer to be credible, consistent and compelling. Mr E says that the engineer explained to him that an installation of a new boiler was necessary and would leave him with a fully working central heating

system. I am satisfied he was told this as in these particular circumstances I do not think he would have gone ahead with purchasing the boiler otherwise. It was approaching winter and Mr E had no central heating - I am satisfied that his priority was to have his central heating back up and working again and that he relied on the expert advice to achieve this.

British Gas has indicated that Mr E wanted to replace his boiler anyway as the boiler was on a reduced parts list. However, it appears that Mr E was satisfied with his boiler up to this point - he had it regularly serviced, and the boiler was not exceptionally old. I am not persuaded that Mr E simply wanted to change his boiler because it was on a reduced parts list – I consider that it was because the engineer told him it would fix the central heating.

British Gas has indicated that the paperwork which Mr E signed says that there may be additional costs for pipework. However, after considering this I do not find that the statement is sufficiently clear to inform Mr E that he did not require a new boiler to fix his problem. And based on the evidence available I am satisfied, on balance, that a new boiler was not necessary to fix his problem. Mr E has since paid for (significantly cheaper) additional work to rectify the problem, and I am satisfied that this is what was required originally.

Overall I am satisfied that Mr E was told a false statement of fact by the supplier of the boiler, and that he has acted on this statement to his detriment. I am not persuaded Mr E would have entered the contract had it not been for the false statement, therefore I find that Mr E should be put in the position he would have been in had he not entered the contract.

I consider that the finance agreement for the boiler should be cancelled and Mr E is entitled to a refund of all payments he has made on it so far. Normally I would recommend a return of the goods. However, in these particular circumstances (and considering his old boiler has been disposed of) I find it would be unfair and impractical for Mr E to return the boiler.

my final decision

My final decision is to uphold this complaint. I direct British Gas Services Limited to cancel Mr E's finance agreement for the boiler and return any payments he has already made.

Mark Lancod
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