

complaint

Mrs P complains about the poor installation service she received in respect of a central heating boiler and radiators, the purchase and installation of which were financed by Ikano Bank AB (publ) ("Ikano"). She brings this complaint under section 75 of the Consumer Credit Act 1974.

background

Mrs P arranged with a central heating supplier, whom I'll call "S", for her existing central heating boiler and six radiators to be removed and replaced with a new boiler and six radiators. The purchase and installation were financed by a loan from Ikano, which was introduced to Mrs P by S.

After the boiler and radiators were fitted, Ikano received a satisfaction note from S which seemed to have been signed by Mrs P. So it paid out to S the cost of the goods and installation. However Mrs P complained to Ikano that:

- she had not signed the satisfaction note, so her signature on it must have been forged;
- in the course of the installation S had caused a lot of damage to her house, including to the walls and doors. Her household insurers had met the cost of rectifying this - £2,240;
- after the installation one radiator wasn't working;
- S removed the old boiler and some piping but didn't remove the old radiators and other rubbish as it should have under its agreement. She had to arrange to remove these herself; and
- she arranged for a safety check on the installation from a third party ("T"). This said that the boiler flue hadn't been secured properly and as a result an "at risk" notice was placed on the boiler.

Ikano didn't accept Mrs P's complaint. It said that:

- the signature on the satisfaction note was an electronic signature, and matched other signatures of Mrs P. So it didn't believe it had been attached fraudulently;
- it couldn't comment on the damage to Mrs P's property as installation wasn't part of the loan agreement;
- S had told it that the reason for the radiator not working was likely to be a fault in the existing pipework, for which it wasn't responsible;
- S had told it all rubbish and old materials had been removed; and
- S said it had installed the flue in accordance with the manufacturer's requirements. So it had never been unsafe. However to reassure Mrs P, it had returned and fitted additional flue clamps.

Our investigator recommended that this complaint should be upheld in part. Commenting on the various issues Mrs P had raised, he said:

- it wasn't reasonable to expect Ikano to analyse every signature it received to check its authenticity. It had no reason to question Mrs P's signature on the satisfaction note provided. So it had acted reasonably in releasing the funds;
- the issue about the damage to Mrs P's property was outside what was covered by the loan agreement, and she needed to take this up with S rather than Ikano;

- S had tried to resolve the issue of the radiator that wasn't working, but without success. It thought the problem was with the existing pipework. T suggested Mrs P try bleeding the radiator, which cured the problem. As this was a simple fix, the investigator thought S could have done more to resolve the problem earlier;
- he didn't think there was enough evidence to say S hadn't removed all the rubbish and old materials; and
- Mrs P was entitled to rely on T's advice, as industry experts, regarding the fitting of the flue. S had agreed to fit extra clamps, but there was a period during which Mrs P had avoided using the boiler, which caused her inconvenience.

The adjudicator recommended that Ikano pay Mrs P £100 as compensation for the inconvenience S had caused her. Ikano said S had agreed to pay this amount to Mrs P.

Mrs P responded to say, in summary, that:

- the submission by S of the satisfaction note which she hadn't signed or authorised amounted to the crime of fraud and obtaining money using a false instrument;
- Ikano facilitated the fraud by not checking adequately with her as its client that she was satisfied with the work carried out;
- overall the service she received from S was poor and not the standard she was entitled to expect; and
- the compensation offered was inadequate.

my provisional findings

I issued my provisional view to Mrs P and to Ikano on 31 January 2018. In it I commented on the issues Mrs P had raised as follows:

the signature on the satisfaction note

I said it was normal in the finance industry for a finance provider to ask for a satisfaction note signed by the customer before it paid a supplier for the goods or services it was financing. It was also normal for this to be produced to the finance provider by the supplier.

So Ikano followed normal industry procedure in this case. There was nothing to suggest to Ikano the signature wasn't valid. So I couldn't say Ikano acted unreasonably in paying S for the goods and services it had agreed to provide.

If Mrs P's signature was obtained and used without her authority, or forged, this would appear to have been done by S or its agents. They were not regulated by the Financial Conduct Authority, and so their conduct wasn't within the jurisdiction of this service.

the damage to Mrs P's property

It appeared the agreement between Mrs P and S was for the supply and installation of the boiler and radiators, and this agreement was financed by Ikano under the loan agreement. Under section 75 Ikano was equally responsible with S for any breach of contract or misrepresentation under the contract.

The description in the loan agreement of what was financed by it was unhelpful. It said "Description of goods: Workspace". When asked by the investigator, Ikano wasn't able to

provide a copy of the contract between S and Mrs P that it financed. But I'd seen nothing to suggest this wasn't a single contract for the supply of goods and their installation.

I found it was an implied term of the contract that S would carry out the work with reasonable care and skill. It appeared from the damage caused to Mrs P's property that it failed to do so. Ikano was equally responsible with S for this failure under section 75. So it was wrong of Ikano to say that it had no responsibility for this and Mrs P would have to take this up with S.

It appeared that Mrs P's household insurers had paid for the damage to be made good, so she wasn't out of pocket in this respect. However I considered the damage and its repair, and Ikano wrongly telling her it had no responsibility in the matter, would have caused her upset and inconvenience. I thought Ikano should pay her compensation of £250 for this.

the faulty radiator

It wasn't clear why S couldn't get the radiator working when in the end bleeding the radiator produced the desired result. Like the investigator, I thought S could have done more to resolve the issue earlier.

removal of rubbish and old materials

The investigator didn't think there was enough evidence to support what Mrs P was saying. However she had sent us a photo of rubbish she said was left in her loft. And she had consistently complained about this matter from the outset, including in her first phone call to Ikano on 12 May 2017. On balance I accepted her complaint on this point – that S failed to remove all the materials it should have after the installation.

installation of the flue

S disputed that its initial installation was incorrect. It said it followed the manufacturer's recommendation. However T, which was an independent industry expert, said further clamps should have been fitted. According to the file, S spoke to T which acknowledged that it wasn't necessary to put an "at risk" note on the boiler until the further clamps were fitted. But T still maintained that fitting further clamps was recommended practice.

On balance, I think S should have fitted further clamps from the outset, and its failure to do so resulted in Mrs P suffering upset and inconvenience.

For the reasons I had set out, I thought S's performance in installing the boiler and radiators fell short of the standard of competence Mrs P was entitled to expect, and that Ikano should compensate her under section 75 for the upset and inconvenience this caused her. As well as the £250 compensation for the issues around the damage to Mrs P's property I had mentioned, I thought Ikano should pay her a further £250 compensation to make up for the upset and inconvenience in respect of the other matters, making £500 in all.

Subject to any further comments and evidence I received from either Mrs P or from Ikano by 1 March 2018, I said I intended to uphold this complaint in part, and to order Ikano Bank AB (publ) to pay Mrs P compensation of £500 in total.

Ikano said that it would accept my provisional decision. Mrs P responded to say, in summary, that she didn't think this matter had been handled with the severity it deserved.

She felt her and her family's lives had been put in danger by the faulty flue installation. She repeated, in detail, the ways in which the installation had been mishandled, and that Ikano had paid S after she specifically told it she hadn't signed any satisfaction note in any way. She thought the use of the satisfaction note she hadn't signed was fraud.

As compensation, she thought the whole cost of the supply and installation of the boiler should be refunded plus a further compensation payment of £1,000.

my findings

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

Mrs P's two main points of complaint seem to be the use of a satisfaction note which she says bore her forged signature, and the faulty flue which she says put her family's lives in danger.

I must make it clear to Mrs P that it isn't the role of this service to fine or punish a financial business - Ikano. That is the responsibility of its regulator - the Financial Conduct Authority. And we have no jurisdiction over non-financial businesses like S or its agents. We can only order a financial business to pay compensation if we think it's fair and reasonable in relation to events that have happened, not what might have happened.

Whatever S or its agents did in relation to the satisfaction note, I'm not persuaded that Ikano was party to any fraudulent behaviour. Mrs P says the faulty installation took place on Saturday 6 May 2017, and she told Ikano on Monday 8 May 2017 that she wasn't happy with the installation and hadn't signed a satisfaction note.

It was entirely Ikano's decision at what stage to pay S for the work it had done – Mrs P didn't have a right of veto. However Ikano's file notes record that it checked the satisfaction note on Tuesday 9 May 2017, before paying S for the work on 10 May 2017, and Mrs P's call about the installation and the satisfaction note didn't take place until Friday 12 May 2017.

There is a clear difference between the evidence of Mrs P and Ikano on when Mrs P made Ikano aware of her dissatisfaction. Both maintain that their version is correct, and Ikano's version is supported by its file note recording the phone call taking place on 12 May 2017.

On balance, I can't say that the evidence is strong enough for me to say that Ikano knew of Mrs P's discontent, but still proceeded to pay S.

I concluded in my provisional decision that S should have fitted additional clamps to secure the flue at the outset, and that when T put an "at risk" note on the boiler this caused Mrs P upset and inconvenience. Fortunately not fitting the clamps didn't cause any further harm to Mrs P and her family and was quickly rectified. T also apparently acknowledged to S that putting an "at risk" note on the boiler had been unnecessary.

I understand Mrs P's strong feelings in this matter. However, having considered everything she has said, I remain of the view that appropriate compensation in this complaint is £500.

my final decision

My decision is that I uphold this complaint in part, and order Ikano Bank AB (publ)

to pay Mrs P compensation of £500 in total.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 26 April 2018.

Lennox Towers
ombudsman