

complaint

Mrs A complains that NewDay Ltd didn't accept her claim under S 75 Consumer Credit Act 1974 in respect of furniture.

background

In February 2013 Mrs A bought two sofas from a retailer I'll call D. She says that within six months the leather began to peel off. D repaired them by painting over the leather, but this didn't last. The leather was painted over a further three times and each time Mrs A was reassured the problem would be resolved. She took advice from Citizens Advice and wrote to D in September 2015 to reject the sofas. It offered her £200 compensation.

Mrs A took the matter up with NewDay Ltd. It said that it could only pursue the matter if Mrs A referred her complaint to the Furniture Ombudsman. She brought her complaint to this service and it was investigated by one of our adjudicators who recommend that it be upheld.

He noted that D said it given Mrs A report on the condition of the sofas when it had examined them previously, but NewDay was unable to supply this. He contacted D and it provided its system notes which confirmed Mrs A's original claims. From this he considered the complaint should be upheld and suggested that NewDay Ltd should:

- a) Unwind the finance agreement;
- b) Refund 50% of all payments made by Mrs A;
- c) Remove any adverse information on her credit file, if there is any; and,
- d) Arrange to collect the sofa at its own cost and at a time that is convenient for Mrs A.

NewDay didn't agree and said it hadn't rejected the S 75 claim, but needed an independent report before agreeing that the problem was due to a manufacturing defect.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where necessary and / or appropriate, I reach my decision on a balance of probabilities – that is, what I consider is most likely to have happened in the light of the available evidence and the wider surrounding circumstances.

Mrs A spent some £4,000 on her sofas and it's clear from her evidence and D's system notes that leather was peeling off within a matter of months. She also had a number of screws falling out. D made repairs by painting over the affected areas on four occasions, but it's clear that this was ineffective. I am not sure why someone from D didn't act earlier to replace the sofas. Mrs A says that D's representatives who carried out the repair said it the sofas were defective, but when the matter was referred to management no action was taken.

While I understand NewDay wanted an independent report, I believe, on balance, it is fairly obvious looking at Mrs A's version of events and those provided by D that the sofas were faulty. Leather should not peel off a new sofa and I have seen no evidence to support the view that it was due to wear and tear. The sofas may have suffered wear and tear subsequently, but that doesn't mean they were fit for purpose when they were delivered.

I agree with the adjudicator that NewDay should:

- a) Unwind the finance agreement;
- b) Refund 50% of all payments made by Mrs A;
- c) Remove any adverse information on her credit file, if there is any; and,
- d) Arrange to collect the sofa at its own cost and at a time that is convenient for Mrs A

my final decision

My final decision is that I uphold this complaint and I direct NewDay Ltd to compensate Mrs A as above. Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs A to accept or reject my decision before 22 August 2016.

Ivor Graham
ombudsman