

## **complaint**

Mr M complains that Vanquis Bank Limited rejected his section 75 claim when he complained about the non delivery of a laptop purchased from a third party supplier using his Vanquis credit card.

## **background**

In April 2018 Mr M purchased a laptop online and paid with his Vanquis credit card. The cost of the laptop was £319.98.

On 6 April 2018 Mr M received a text to say the laptop had been delivered to his home address. Mr M was away for the weekend. When he returned on 9 April 2018 he contacted the supplier and told them the laptop hadn't been received and that no-one had been at home to take delivery.

The supplier said the delivery driver had confirmed that the laptop had been delivered to the correct address. It said the signature on the proof of delivery was similar to Mr M's signature.

Mr M contacted Vanquis and made a section 75 claim. Initially the cost of the laptop was credited to Mr M's account but later Vanquis declined the claim and re-debited the account.

Mr M is unhappy because he says he didn't accept or sign for delivery. He says that only he and his wife live at the property and they were both away when the delivery was made. To resolve his complaint, Mr M wants his account credited.

Our investigator didn't uphold the complaint. She said that based on the available information, Vanquis hadn't acted unfairly or unreasonably in declining the section 75 claim.

Mr M didn't agree. He said the signature on the proof of delivery wasn't his and that he had been in Mansfield at the time when the laptop was delivered. He said it was unfair to prefer the evidence of the supplier, which he felt was based on a fraudulent signature.

## **my findings**

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

Under section 75 of the Consumer Credit Act 1974, Mr M has a like claim against Vanquis as he does against the supplier for breach of contract and/or misrepresentation. For the purposes of section 75, a breach of contract is where the supplier fails to do what the contract says it must, either expressly or by implication. For example, there is a breach of contract where goods that have been paid for are not supplied, or are not up to standard.

The way in which this service approaches section 75 is to look at what happened and assess whether there are grounds for a successful claim under section 75.

Mr M says he didn't receive the goods. In order to uphold the complaint, I would need to be satisfied on the balance of probability that the goods weren't delivered.

The delivery company who delivered the goods on behalf of the supplier has said that the laptop was delivered at 15.19pm on 6 April 2018. It said the laptop was delivered to the

address provided by Mr M when he placed his order. GPS details provided by the delivery company show the driver was at Mr M's property.

The supplier has said the signature on the proof of delivery is similar to the signature provided by Mr M on his disclaimer form. Mr M says he didn't sign the proof of delivery and feels that the delivery driver signed it in his name.

I've looked at the signatures on the proof of delivery and the disclaimer. There are similarities in the signatures. I've taken into account the fact that one signature is electronic and the other is in paper form. On balance, there are more similarities than differences. Because of this, I think the person who signed the proof of delivery knew what Mr M's signature looked like. I can't be certain of who signed the proof of delivery. I appreciate that Mr M says he was away for the weekend and didn't sign the proof of delivery. Mr M has provided evidence to show that he was in a supermarket in Mansfield on 7 April 2018 but I haven't seen any evidence that Mr M was in Mansfield or anywhere else on 6 April 2018, the day when the laptop was delivered.

Taking into account all of the available evidence, I'm satisfied on the balance of probabilities that the laptop was delivered to Mr M's address on the date and time shown on the proof of delivery. Because of this, I don't think there are grounds for a successful section 75 claim and I can't fairly conclude that Vanquis has acted unreasonably in declining the claim.

### **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 M to accept or reject my decision before 28 June 2019.

Emma Davy  
**ombudsman**