

complaint

Mr W complains that Santander UK plc won't refund to him the money that he paid for a boiler repair. His complaint is made against Santander under section 75 of the Consumer Credit Act 1974.

background

Mr W used his Santander credit card to pay £1,479.60 to a plumber for some boiler repairs in March 2015. The boiler failed about ten months later causing a leak and damage. Mr W complained to the plumber about the boiler repair and then to Santander under section 75. He wasn't satisfied with Santander's response so complained to this service.

The adjudicator didn't recommend that this complaint should be upheld. She noted that the plumber says that the cause of the leak was the hot water cylinder being heavily corroded – and as the cylinder wasn't repaired or installed by the plumber she couldn't safely conclude that the leak was caused by the work carried out by it. And she said that she didn't have any information to suggest that the leak was caused by a failed valve or cracked pipe. So she concluded that she was unable to ask Santander to refund the cost of the plumber's repairs.

Mr W has asked for his complaint to be considered by an ombudsman. He says, in summary, that the plumber says that the cylinder is the cause of the leak because that is the part it didn't repair or replace. He says that a cracked cylinder is a very rare event and that the plumber didn't inspect the cracked cylinder. He also says that the plumber serviced and commissioned the boiler so should be liable for the failure.

my findings

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

In certain circumstances, section 75 gives a consumer an equal right to claim against the supplier of goods or services or the provider of credit if there's been a breach of contract or misrepresentation by the supplier. To be able to uphold Mr W's complaint about Santander under section 75, I must be satisfied that there's been a breach of contract or misrepresentation by the plumber.

The plumber says that the boiler failed because of a corroded cylinder. It didn't repair or replace the cylinder. It did service and commission the boiler as part of the repair – but I find that servicing and commissioning wouldn't necessarily make the plumber liable for a corroded cylinder.

Mr W clearly feels very strongly that the plumber is responsible and liable for the boiler failure. But he hasn't provided any other evidence to show that it was the plumber's repairs that caused the boiler to fail. So I'm not persuaded that there's enough evidence to show that the plumber failed to perform the repair with reasonable care and skill or that its repair caused the boiler to fail. And I'm not persuaded that there's been a breach of contract or misrepresentation by the plumber. So I find that it wouldn't be fair or reasonable for me to require Santander to refund the cost of the boiler repair to Mr W under section 75 - or to take any other action in response to his complaint.

my final decision

For these reasons, my decision is that I don't uphold Mr W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 14 October 2016.

Jarrold Hastings
ombudsman