

complaint

Mr W complains that Creation Financial Services Limited refused his claim under section 75 of the Consumer Credit Act 1974.

background

Mr W bought solar panels but says that the financial benefits of them were misrepresented to him by the salesperson. He paid for the panels with credit provided by a fixed sum loan agreement with Creation. The loan was for nearly £12,000 repayable over 10 years. So, with interest, Mr W would repay nearly £19,000.

Section 75 says that Creation can be held jointly liable if it can be shown that there had been a breach of contract or misrepresentation on behalf of the supplier of the panels.

Our adjudicator found that the documentation suggested that Mr W would receive total annual savings of £922.01. This would be made up from the '*generation tariff*', the '*export tariff*' and the '*electricity savings*'. Creation says that these were only estimates of rebates and savings – they weren't guaranteed

Mr W says that he only agreed to the installation of the panels and the finance because the salesperson said that the payments from his electricity supplier would cover his loan repayments and that the electricity generated would reduce his household bills. But he says he hasn't received the benefit of these savings.

The adjudicator considered that the supplier of the panels had misrepresented the benefits of having them fitted and was satisfied that Mr W had relied on the promise of savings in deciding to have them fitted. She concluded that Mr W wouldn't have entered into the loan agreement, and bought the panels, had the savings to be achieved by them not been misrepresented. And because of this, she recommended that Creation should reduce the total amount payable under Mr W's credit agreement by 75%.

Creation disagreed so this complaint was referred to me for a final decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I've reached the same conclusions as the adjudicator, and for the same reasons. So there's little more I can add.

There's no question about what the '*Customer Satisfaction Note*' suggests Mr W can achieve in annual savings. But having seen a selection of his electricity bills before and after installing solar panels and the details of the payments he's received after having the panels fitted, there's no doubt in my mind that the suggested savings haven't been achieved. And Mr W is now in financial difficulty because the panels are actually costing him money.

I think that the savings that the panels were predicted to deliver were misrepresented to Mr W and that if the misrepresentation hadn't happened then he wouldn't have bought the panels. I think it's fair and reasonable for Creation to accept joint liability for the misrepresentation made by the panel supplier. And I think that Creation should do what our adjudicator recommended.

Mr W clearly wanted solar panels and believed he'd get the benefits outlined by the salesperson. But as he's not getting the financial benefit he was led to believe he would, it's only right that he receive a considerable discount to the original credit agreement.

Our adjudicator suggested that a discount of 75% on the loan agreement would be appropriate. And I think that this would offset the costs of the original installation. So I think that fair and reasonable redress is for Creation to rework Mr W's loan agreement so that he repays no more than 25% of the original amount. And as he's been making payments since July 2013, these amounts should be taken from the amended outstanding total.

I am aware that Mr W took out the agreement for ten years. The total amount repayable was due to be £18,583.20. By my calculation, 25% is £4,645.80 and this works out at approximately £38 per month over the ten years of the loan.

my final decision

My final decision is that I uphold this complaint and require Creation Financial Service Limited to rework Mr W's fixed sum loan agreement to ensure he pays no more than 25% of the original amount repayable.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 5 October 2015.

Andrew Macnamara
ombudsman