

## **complaint**

Mr A has complained about the way Hitachi Capital (UK) Plc has dealt with a claim he made under section 75 of the Consumer Credit Act 1974 ("s.75").

## **background**

In August 2013 Mr A entered into agreement with a company called Crystal Windows and Doors Limited ("Crystal") for the supply and installation of a solar panel system. The system cost £7,500 and Mr A paid by way of a fixed-term loan that Crystal arranged with Hitachi.

Mr A says that the system wasn't working properly and so he hasn't received the financial benefits that he was told the system would provide him. He also claimed that the installation of the solar panels caused damage to his satellite dish and guttering.

Under s.75 a finance provider can be held responsible for misrepresentations and breaches of contract to the same extent as the supplier of goods or services. So, Mr A made a s.75 claim to Hitachi.

Mr A said that he was first made aware the system wasn't working when a British Gas engineer advised him that the solar panels had only generated 1 unit of energy. Hitachi disputed this and took the view that Mr A must have known the system wasn't working and had failed to do anything about it.

Hitachi referred the matter to Crystal who attended Mr A's property and arranged for the guttering to be fixed. Crystal said it would need further evidence to decide if compensation should be offered, but it did initially offer £150 to Mr A, but subsequently offered £350 in full and final settlement. Hitachi said it couldn't assess that element of the claim until the system had been operating properly for a year.

As Mr A remained unhappy, he referred a complaint to this Service. One of our investigators looked into Mr A's concerns and concluded the complaint should be upheld.

The investigator said he thought Mr A would have raised concerns about the system earlier if he had known it wasn't working – and he couldn't reasonably have been expected to regularly check if the system had stopped working.

The investigator recommended that Hitachi compensate Mr A for the losses he suffered as a result of not receiving financial benefits for the period the system wasn't working. But he said that Hitachi didn't need to do anything in relation to damage Mr A says was caused to his satellite dish or water ingress due to problems with his roof. He also noted Mr A had claimed that the system's inverter needed replacing, but said Hitachi wasn't responsible as it stopped working outside of the 5-year warranty period.

Mr A accepted the investigator's view in the main. But he did claim that he had reported the issues with the inverter to Crystal previously within the warranty period – but he couldn't provide evidence of this.

Hitachi didn't accept the investigator's view. It referred to the investigator's correspondence to Crystal who responded with comments for consideration. It re-iterated that Mr A should have been checking that the system was working on a quarterly basis, as it would have been

evident there were problems when he wasn't receiving income from the system. But it says Mr A never mitigated his position.

As no agreement could be reached, the complaint has been passed to me to review afresh and make a 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 much the same conclusion as the investigator.

I should point out that I'm aware that Mr A has recently raised concerns that even when the solar panel system is working, there is a significant shortfall in the income he was promised it would generate. But as Mr A has not raised this issue with Hitachi specifically, it doesn't form part of this complaint and I can't consider it in this decision. If Mr A wishes to explore that point, he would need to raise this with Hitachi separately.

For there to be a valid claim under s.75 there must be an appropriate debtor-creditor-supplier relationship. Having reviewed everything I'm satisfied that exists here and as Hitachi has accepted responsibility for the claim, I won't expand further.

I've reviewed everything but I consider there are several issues for me to decide:

- If it's fair and reasonable for Hitachi to compensate Mr A for the period when his system wasn't working and generating income.
- If the installation of the solar panels is responsible for damage to Mr A's roof and satellite dish.
- Whether the system inverter should be replaced under the terms of the system warranty.

I've considered whether Mr A was likely aware that the system was not operating correctly. I understand Hitachi (and Crystal) say it would have been evident something was wrong, as he was receiving no income from the system. But I'm persuaded otherwise – as having paid £7,500 for the solar panels, I don't think he would have just ignored problems and knowingly missed out on income.

The system was not working properly, and it was not Mr A's fault. So, I consider it fair and reasonable for Hitachi to compensate Mr A for that. To do that, it should base the compensation on the FiT income and energy bill savings Mr A ought to have received whilst the system wasn't working.

I've also considered the damage Mr A says was caused by the installation of the solar panels. The installation was in 2013 and if Mr A had thought that damaged his satellite dish, I think he would have raised it before 2017.

I'm also aware Mr A says that there was also damage caused to the roof which has resulted in water ingress into his home. But in late 2020 Crystal arranged for a solar agent to attend the property and investigate. The agent concluded the water ingress was not caused by the solar panel installation, but said it was caused as a result of lack of maintenance and missing roof materials.

I consider it reasonable for Hitachi to rely on the conclusions of a specialist that has inspected the property, and so I can't reasonably say it should compensate Mr A for the damage claimed for. But I do note if any further investigation reveals that water had only entered Mr A's property as a result of an error with the system installation, then Crystal will consider the cost of putting it right.

The final issue for me to decide is in relation to the inverter for the system. All the parties agree that the inverter is now outside its 5-year warranty period – and so Crystal has offered to replace the inverter for a fee. Whilst I note Mr A says he reported issues about the inverter before the warranty had expired, when the investigator asked for further information, Mr A was unable to provide evidence. So, on balance, I can't reasonably conclude Hitachi should be reasonable for the cost of replacing the inverter.

### **putting things right**

As set out above, I consider it's fair and reasonable for Mr A to be compensated for the period when the system was not working correctly and didn't generate any income. Whilst I've considered a number of options, I consider fair compensation would be for Hitachi to calculate the FiT income and energy bill savings Mr A ought to have received whilst the system wasn't working. It should then pay that sum to Mr A with 8% simple interest from the date he should have received the benefit to the date of settlement.

### **my final decision**

My final decision is that I uphold Mr A's complaint against Hitachi Capital (UK) Plc. To put things right it should pay Mr A the fair compensation set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 29 April 2021.

Ross Hammond  
**ombudsman**