

## **complaint**

Ms W says she called a plumber out because her boiler showed there was a problem with the pressure. But the plumber carried out extra work without her consent.

She's unhappy that Bank of Scotland Plc (trading as Halifax) won't refund her for the extra work under section 75 of the Consumer Credit Act 1974 ("Section 75").

## **background**

On 8 May 2017 Ms W called out a plumber to look at her boiler. She says there was a problem with the pressure. Ms W was charged £120 for this work, but the fault wasn't fixed. So a second plumber was called out on 12 May 2017. Both plumbers worked for the same business.

Ms W says the plumber that came out on 12 May completed extra work when he re-sealed the boiler flue with cement and fitted a washer to the hot tap. She says she objected to the extra work being carried out, but the plumber took over and went ahead anyway. Ms W says the boiler flue had already been sealed with silicone three years ago, so the seal was perfectly adequate. And another plumber was due to repair her tap.

Ms W paid for the work using her Halifax credit card. So she asked Halifax to make a claim under Section 75, and reimburse her for it.

Section 75 says that in certain circumstances, the borrower under a credit agreement has an equal right to claim against the credit provider if there's either a breach of contract or misrepresentation by the supplier of goods or services.

Ms W says the plumber misrepresented the situation to her on 12 May 2017 when he told her he had to do the work.

Halifax didn't uphold Ms W's Section 75 claim as it didn't think there was a misrepresentation or a breach of contract. It said the relevant business accepted that the boiler should have been identified and fixed by the first plumber on 8 May, and offered Ms W £120 plus VAT for this. Halifax thought that offer was fair.

Ms W remained unhappy, so she complained to us.

Our investigator appreciated that repairing the seal around the boiler flue wasn't part of the original call out. But she thought it was reasonable for the plumber to check the flue after carrying out work on the boiler. That included checking that all joints were correctly assembled and sealed.

The plumbing business said Ms W's boiler flue was originally sealed with silicone. But the 12 May plumber recommended re-sealing the flue with cement. He believed the silicone didn't meet health and safety regulations as the silicone could expand, putting Ms W's boiler at risk.

In the circumstances, our investigator didn't think the plumber misrepresented the situation. So she didn't think Halifax made a mistake when it declined the Section 75 claim. Our investigator also said that Ms W signed an invoice to say that she was happy with the job and costs involved. So she thought Ms W authorised the extra work.

Ms W disagreed. She said she felt bullied and intimidated by the plumber, so she signed under duress. Our investigator was sorry to hear this, but she said that Section 75 doesn't cover this. So she didn't think it would be fair to hold Halifax responsible for what happened. She appreciated that Ms W has told us she's still having problems with the tap that was repaired by the plumber. But she said that Halifax wasn't responsible for that either.

Ms W asked for her complaint to be reviewed. Amongst other things she says:

- she disagrees with the argument that silicone expands at high temperatures.
- she had the right to refuse the additional work and to get a second opinion.
- the plumber should have just given her advice - she wasn't obliged to take it.

### **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 don't think Ms W's complaint should be upheld either. I'll explain why.

Ms W's strength of feeling about what happened is clear. She has told us she felt bullied into getting the extra work done. And she doesn't think the extra work was necessary.

I'm sorry to hear about all how upset Ms W is. But I should start by saying that Halifax isn't responsible for the plumber's actions or the follow up action she thinks the business still needs to take. It's only responsible for the handling of her Section 75 claim. So I've only considered the handling of the Section 75 claim in this complaint.

#### *Section 75 claim*

Section 75 allows a customer to claim a refund of money they paid to a supplier from their credit card company in very specific circumstances. There needs to be enough evidence to show the supplier:

- said something about the goods or service being sold that wasn't true; and this made the customer enter into the contract (a misrepresentation); or
- had broken the terms of the contract.

My role isn't to decide whether Section 75 applies here. Rather, I need to think about whether Halifax made a mistake in the way it considered the Section 75 claim.

#### *misrepresentation*

Halifax considered the information Ms W and the plumbing business provided when it considered the Section 75 claim. Having looked at it, I understand why it took the view that there wasn't a misrepresentation. Ms W hasn't been clear about what was said on 12 May. In the circumstances, I don't think there's sufficient evidence to show that the plumber said something false that induced her into the contract.

*breach of contract*

Ms W didn't focus on breach of contract when she made her Section 75 claim. But she has said that as far as she's concerned, she didn't enter into a contract with the business. That's because she didn't ask for the extra work to be done, and she only signed the invoice under duress.

I understand the argument Ms W is making. But I think the invoice Ms W signed shows there was a contract between her and the business. And as I said above, duress isn't something that Halifax can be held responsible for under Section 75.

I'm satisfied that Halifax considered breach of contract when it considered Ms W's Section 75 claim. And I understand why it decided it didn't think that there was a breach of contract given that there's no dispute that the plumber carried out the extra work.

Ms W has said that a new fault has developed on the tap that was fixed on 12 May. And she holds the business responsible for this. But she hasn't provided us with evidence to back this up. So I don't think it would be fair and reasonable for me to conclude that there was a breach of contract because the 12 May work wasn't of satisfactory quality.

*conclusion*

I'm conscious that Ms W is likely to be very disappointed by this decision. But for the reasons set out above, I don't think Halifax made a mistake when it said that it wouldn't reimburse her under Section 75.

I appreciate that Ms W has described the plumbing business' offer as derisory. But I understand that it's still on the table. Ms W should contact the business directly if she wants to take the business up on its offer.

**my final decision**

My final decision is I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 26 April 2018.

Laura Forster  
**ombudsman**