

complaint

Mr M complains about the quality of sofas he bought on finance from Caversham Finance Limited (trading as BrightHouse). He wants a refund under section 75 of the Consumer Credit Act 1974.

background

Mr M entered into the hire-purchase agreement with BrightHouse to buy two refurbished sofas in May 2015. He says after delivery, he noticed one sofa was filled with towels instead of cushion filling. Mr M says he spoke to the store manager and was told that the sofas aren't checked before they're delivered. BrightHouse collected both sofas in July 2015. He says he was told he couldn't have a replacement. And he hasn't had a refund of the payments he's made.

BrightHouse says its service centre carried out quality control checks. It says when the sofa left the service centre, it wasn't filled with towels. It said Mr M couldn't provide evidence in support of his complaint – which it didn't uphold.

The adjudicator says BrightHouse didn't send any information in support of its position. He says it accepted the return of the sofas, so he asked BrightHouse to cancel the finance agreement. He also suggests BrightHouse should refund Mr M's payments to date, with 8% simple interest, from the date of payment, until the date of refund.

Mr M agrees with the adjudicator's view. He wants a refund of the money he's paid so far. He also wants compensation for the poor customer service.

BrightHouse hasn't responded to the adjudicator's view.

my findings

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

It's unhelpful that BrightHouse chose not to engage with our adjudicator. So, there's very little information setting out what it says happened. Where there are gaps or inconsistencies in the information, I reach my decision based on what I think is most likely to have happened. Under section 75 of the Consumer Credit Act, I have to consider whether there's been a breach of contract or misrepresentation of the sofas Mr M was sold.

BrightHouse wrote to Mr M in August in response to his complaint. It says it hasn't upheld his complaint that the sofas weren't of satisfactory quality. But, I think its actions are inconsistent with what it says. I've seen the returns receipt showing that BrightHouse collected the sofas on 16 July 2015, after Mr M reported the problem. The returns document only refers to one sofa, but, Mr M says both were collected. And, I've no reason to doubt that. After this, BrightHouse didn't ask Mr M to make any further payments under his finance agreement. I think these actions are consistent with an acknowledgement that the goods supplied under the contract weren't of satisfactory quality.

I haven't seen anything to persuade me that the goods were properly checked before they were delivered to Mr M. I also haven't seen any form of reasonable explanation as to how Mr M's sofa could have been filled with towels instead of cushion filling. So, on balance, I don't think the sofas could have been properly checked. And, from what I've seen, I don't think they were of satisfactory quality. I find BrightHouse in breach of contract.

I have to consider the most appropriate way for Mr M to be put back in the position he would have been in, if BrightHouse didn't breach its contract. I know he wants replacement sofas. But, I can't tell BrightHouse to enter into another contract with Mr M. Instead, I agree with the adjudicator. I require BrightHouse to refund Mr M all of the money he paid, plus interest. I also require it to amend his credit file to remove any reference to this finance agreement.

Finally, I require BrightHouse to pay Mr M £150 compensation for the inconvenience he's been caused. I think BrightHouse provided poor customer service which resulted in Mr M having to return the sofas and having to bring his complaint to us.

my final decision

My final decision is I uphold this complaint.

In relation to Mr M's finance agreement dated 11 May 2015, I order Caversham Finance Limited (trading as BrightHouse) to:

1. Cancel the finance agreement and confirm this in writing to Mr M;
2. Refund all of the money Mr M paid under this agreement, together with 8% simple interest per year from the date of each payment until the date of the refund¹;
3. Remove any entry on Mr M's credit file in respect of the agreement; and
4. Pay Mr M £150 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 8 April 2016.

Loucia Kyprianou
ombudsman

¹ If BrightHouse deducts tax from the interest element of my award, it should send Mr M a tax deduction certificate when making payment. He can then use that certificate to reclaim the tax if he's entitled to do so.