

complaint

Mr G complains that a sofa suite he bought with a hire purchase agreement through Creation Financial Services Limited was not of satisfactory quality when it was sold.

Mr G's mother, Ms L, brings the complaint on his behalf.

background

Mr G chose a new sofa suite from a local furniture store. He chose to pay for this by taking out a hire purchase agreement with Creation.

However, he found the sofa suite began to develop a fault after six months of use. He complained to Creation and asked to reject the goods.

Mr G asked an independent furniture specialist to inspect the sofa suite and provide him with a report on the fault. This concluded that the fault was from manufacture and the furniture was not fit for purpose at the time it was sold.

Creation then commissioned its own report into the fault with Mr G's sofa suite. This again concluded that the fault was one of manufacture. However, the inspector said that the fault could be repaired satisfactorily. Creation said that repairing the fault would satisfy its liability under Section 75 of the Consumer Credit Act 1974.

At this stage, the complaint was considered by our service. The adjudicator concluded that as a repair would bring the sofa suite to a level of satisfactory quality; this was a reasonable action to be taken.

Creation then arranged for the repairs to be carried out and the sofa suite was returned to Mr G. But, a few months later, the fault occurred again.

Mr G complained to Creation that the repair had not resolved the fault and he wanted to reject the sofa suite and receive a full refund of the payments he had made to the hire purchase agreement.

Creation asked Mr G to arrange an independent inspection of his sofa suite. This concluded that the fault would always return as it was due to poor craftsmanship or manufacture.

Our adjudicator recommended that the complaint should be upheld. He said the issue with the sofa suite was from manufacture, and therefore Mr G should be allowed to reject it. He recommended that Mr G should receive a refund of the cost of the sofa suite and it should be collected at no cost to him. He also said that Creation should refund Mr G £50 to cover the cost of the inspection report, together with a further £50 for the distress and inconvenience he had experienced.

Creation did not accept the adjudicator's findings. It asked the furniture specialists that had completed the repairs on the sofa suite to re-inspect it. Its report said that Mr G's issue with the sofa suite was not a fault but was the nature of the product. It said the repair had not failed and was within tolerance for the nature of the design of the furniture.

Based upon this report, Creation said that the sofa suite did not have a manufacturing defect at the time it was sold. But it decided to offer either a refund of £250 or said it would accept the recommendation of a report from the furniture ombudsman.

The adjudicator put this offer to Ms L, acting on Mr G's behalf. But he did not accept it.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

From the time when the matter of the fault with Mr G's sofa suite was first considered, two separate, independent reports were carried out. I have considered these in full alongside the inspection photos taken of the sofa. Both of these reports concluded that the fault was one from manufacture. The difference was that the report commissioned by Creation concluded that this could be repaired satisfactorily.

So it was not unreasonable for the repairs to have been attempted in the first instance. But Mr G has found that the repairs have not lasted and have not resolved the fault.

A further two independent inspections were carried out. One of these concluded that the fault was from manufacture. The other, undertaken by the same specialist company that had originally inspected the furniture for Creation and had then carried out the repair, concluded that there was no fault and the issue Mr G was experiencing was nature of the sofa's design.

The findings of the specialist company which inspected the sofa suite on two occasions at the request of Creation do conflict. The first concludes that there was a manufacturing fault that could be repaired. But the second, inspecting the same issue, concludes it is the nature of the furniture's design.

Creation asked Mr G to arrange for independent inspection reports to be carried out on his sofa, and then commissioned its own reports when it wanted a second opinion. I do not consider that it is either fair or reasonable for it now to request a further report from the furniture ombudsman at Mr G's expense.

Having carefully considered all of the circumstances here, and taking into account that the same issue with the sofa suite has been inspected by three separate, independent furniture specialists, I find it reasonable to conclude that the fault with Mr G's sofa was from the time it was manufactured.

my final decision

My decision is that I uphold this complaint. I require Creation Financial Services Limited to:

- refund Mr G the £1,999 cost of the sofa suite;
- pay interest on this amount at an annual rate of 8% simple from the date of the payments to the date of settlement;
- arrange for the sofa suite to be collected and removed at no cost to Mr G;

- pay Mr G £100 to represent the cost of the inspection report and the distress and inconvenience caused by the situation.

If Creation Financial Services Limited considers it has to deduct tax from the interest element of my award, it should send Mr G a tax deduction certificate when making payment, which he can use to reclaim the tax, if he is entitled to do so.

Cathy Bovan
ombudsman