

## **The complaint**

Mr M complains that Vanquis Bank Limited won't refund him the money he paid for some photographic images.

## **What happened**

- Mr M says he spoke to a photographic company (the company) about providing some aerial images. He wanted the images to help him with a boundary dispute, which had led to a hedge being cut down without consulting him.
- Mr M used his Vanquis credit card to pay £300 to the company to provide images that would show the edges of a road beside his house. He says he wanted the company to take aerial photographs of the boundary after the hedge had been cut down.
- Mr M says the company failed to provide the images he'd paid for and he asked for his money back. The company refused to provide a refund.
- Mr M claimed a refund from Vanquis under section 75 of the Consumer Credit Act 1974.
- Vanquis decided to hold Mr M liable for the £300 he'd paid to the company. It said it was unable to pursue the claim further because it hadn't seen enough evidence of a clear breach of contract or misrepresentation at the point of sale.
- Mr M remained dissatisfied so complained to this service. He said he'd been assured the images would show the physical features of the road beside his house in great detail. But the images provided didn't show that because the hedge was still in situ. He said the company had led him to believe it would be carrying out new aerial photography rather than providing historical images.
- Our investigator didn't think Mr M had given the company any specific instructions to provide images without the hedge. And so he thought Vanquis had acted fairly in concluding there had been no breach of contract.
- Mr M doesn't agree.

## **What I've decided – and why**

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 agree with the conclusions reached by the investigator for these reasons:

- In certain circumstances, section 75 gives a consumer an equal right to claim against the supplier of goods or services or the provider of credit if there's been a breach of contract or misrepresentation by the supplier. For completeness, I'm satisfied those

circumstances apply here.

- I'm not determining the outcome of Mr C's claim under section 75 as only a court would be able to do that. Instead, my role is to decide whether Vanquis acted fairly and reasonably when dealing with Mr C's claim and subsequent complaint, taking into account what section 75 says.
- Mr M says the contract he had with the company was made by phone. He didn't receive their terms and conditions but thinks there was a breach of contract as he asked for aerial photography without the hedge and received aerial photography with the hedge.
- Mr M says he called the company before he sent them an email. But I've not seen any evidence of that call and while I don't doubt Mr M's recollection of what was said, I have to base my decision on the evidence I have seen. And that includes the email he sent to the company in May 2020 and the invoice that's dated the same day.
- The invoice shows that Mr M paid £300 for "archive aerial photography research". The email of the same day outlines the problems Mr M was having and sets out that he needed photographic proof that the edges of the roadway next to his house were the boundary lines. He also explained that the hedge was so large it had blocked aerial views.
- I can understand why Mr M might have thought he'd set out what he wanted and why he wanted it. But the invoice shows he paid for "archive" aerial photography and there's no specific request in the email for images without the hedge. Indeed, the email includes a statement that says, "any aerial photography that shows the [roadway] would be helpful".
- In light of the above, I'm not persuaded there's enough evidence to show that there was a breach of contract or misrepresentation by the company that would justify a refund of the money Mr M paid for their services.
- And so, I think Vanquis acted fairly and reasonably in declining Mr M's claim under section 75.
- I'm sorry to hear about the problems Mr M's experienced but I don't think it would be fair or reasonable in these circumstances for me to ask Vanquis to refund the money he paid to the company.

For these reasons, I do not uphold this complaint.

### **My final decision**

My final decision is that I do not uphold this complaint about Vanquis Bank Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 6 September 2022.

Richard Walker  
**Ombudsman**