

The complaint

Miss H complains that a sofa she bought from a retailer, S, was not of satisfactory quality. Because she paid for the sofa with credit provided by Creation Consumer Finance Ltd under arrangements with S, she wants Creation to provide a refund.

What happened

In November 2019 Miss H bought a sofa. She paid a total of £1,900, including £200 for a warranty. The purchase was funded primarily with an interest-free loan of £1,750 from Creation, which Miss H was to repay at just under £50 a month over three years.

Within a few weeks Miss H says that she heard a crack from the sofa. She contacted S to arrange an inspection. The inspector said that some retainer screws had not been fitted when the sofa was delivered. Once they were fitted, Miss H indicated that she was happy the problem had been resolved.

However, in April 2020 Miss H contacted S again. She said something similar had happened a second time. The same technician attended in June 2020. He concluded that the sofa's stretcher rails had snapped in two places. He indicated that a repair was possible and would be fairly straightforward. Miss H did not however agree to a repair or to let the technician carry out a full inspection.

Miss H said that she wanted a replacement, but S did not agree. The sofa was inspected again in October 2020. This time, the technician was given full access and was able to take photographs of the damaged parts. Again, S said a repair was possible and offered to carry it out, but Miss H declined.

Miss H referred the matter to Creation, but it took broadly the same line as S. That is, it said Miss H should take up S's offer to repair the sofa. It was not prepared to provide a refund.

Miss H therefore contacted this service, where one of our investigators considered what had happened. She did not think that a repair would provide a fair outcome. Rather, she agreed with Miss H that she should have a full refund of any sums paid under the loan agreement and that any balance should be written off.

Creation did not agree and asked that an ombudsman review the case. It said the effect of the Consumer Rights Act 2015 was that Miss H was not entitled to a full refund and that S's offer of a repair was reasonable.

I considered the complaint and issued a provisional decision. In summary, I said:

- I am required by the Financial Services and Markets Act 2000 to reach my decision by reference to what I consider to be fair and reasonable in all the circumstances. In deciding that, I must have regard to any relevant law.
- The effect of section 75(1) of the Consumer Credit Act 1974 in this case is that, if Miss H has a claim for breach of contract against S, she has a like claim against Creation.

- Under the Consumer Rights Act 2015, Miss H's contract with S is to be read as including a term that the sofa would be of satisfactory quality.
- There is no dispute that the sofa was not of satisfactory quality, and Creation accepts that it is liable in the same way as S.
- The Consumer Rights Act provides for a range of remedies, including repair, rescission and replacement.
- Whilst the technician indicated that a repair was possible, I can understand why Miss H was reluctant to agree to one.
- Miss H has had some use of the sofa. Her initial concerns had been resolved, but it appears that the sofa was effectively unusable from about April 2020.

I indicated that I thought a fair resolution would be for Miss H to have a refund of everything she had paid from April 2020, reflecting the fact that she had had no real benefit since then.

Miss H accepted my provisional decision and the proposed remedy. Creation has not responded to it.

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.

Since Miss H has accepted my provisional decision and Creation has not responded to it, I see no reason to change my view about this complaint should be resolved.

My final decision

For these reasons, my final decision is that, to resolve Miss H's complaint in full, Creation Consumer Finance Ltd should end the loan agreement and refund any payments which Miss H has made to it from April 2020. It should also add interest to the refunds at 8% a year simple from the date of each payment to the date of the refund.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 3 January 2023.

Mike Ingram

Ombudsman