

The complaint

Mr C complains that Ikano Bank AB (publ) rejected his claim under Sections 75 and 140 of the Consumer Credit Act 1974

What happened

In June 2017, Mr C purchased a battery for his existing solar panel system. He paid for this using a loan from Ikano.

In October 2022, a claims management company ("the CMC") made a claim to Ikano on Mr C's behalf alleging that:

- The supplier misrepresented the system in that it told Mr C that:
 - The battery would provide backup power during power cuts.
 - The savings from the battery would cover the loan repayments.
- The relationship between Ikano and Mr C was unfair on him.

Ikano rejected the claim, and Mr C complained about this. Ikano did not uphold his complaint, so Mr C asked the Financial Ombudsman Service to look into what happened.

Our investigator recommended the complaint be upheld. Ikano disagreed, so I've been asked to make a decision. I issued a provisional decision explaining that I was not planning to uphold the complaint.

The CMC responded on Mr C's behalf to say he didn't accept this. They provided a letter from a solar company that inspected the system in November 2022 which it said showed there was a fundamental problem with the installation, and that this was raised in the letter of claim but has not been addressed. It also said that Ikano had the system inspected but had not shared the report with Mr C.

Ikano acknowledged the provisional decision but did not provide anything further for me to consider.

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.

Section 75 means that Ikano can be held liable for any misrepresentation or breach of contract on the part of the supplier when selling the battery to Mr C. Section 140 allows a court to consider whether a relationship between a creditor and debtor is unfair on the debtor. So, I've taken this into account when considering whether Ikano has done anything wrong in rejecting Mr C's claim and complaint.

Having considered the CMC's additional comments and information provided in response to my provisional decision, my final decision is that I still do not uphold this complaint. I address those additional comments towards the end of this decision.

The battery would provide backup power during power cuts

The CMC says this is the main reason Mr C purchased the battery. Mr C says he realised the battery was not providing backup power a matter of months after the installation when there was a power cut. This would've been by the end of 2017 at the latest. At that time the supplier was still in business – the process of its winding up did not begin until March 2018.

Mr C says he tried to contact the supplier about four years after the installation when he noticed a fault and obtained a report which said there was a problem. By that time the supplier was no longer in business and had been dissolved, and it was only later that he realised he could pursue the matter with Ikano.

But Mr C's attempt to contact the supplier was more than three years after Mr C says he realised the battery did not provide backup power during a power cut. There is no indication that Mr C contacted the supplier prior to this to complain that the battery was not providing backup power. Nor did he contact Ikano about this issue until Ikano was contacted by the CMC in October 2022. Mr C also appears to have contacted Ikano a month earlier to complain that the battery was not charging. But he did not mention to Ikano his other concerns at that time.

I think Mr C's delay in taking action about this issue undermines his recollection of what he was told. Had the provision of backup power been the main reason he purchased the battery I would have expected him to be dissatisfied and to take action about it in 2017 – when the supplier was still in business.

Overall, I don't think there is sufficient evidence to say that the supplier misrepresented the battery as having this functionality or that there was a breach of contract because the battery was not fit for the purpose for which Mr C purchased it.

The savings would cover the loan repayments

The only evidence of this alleged misrepresentation is what is stated in the CMC's letter of claim. I asked Mr C for his comments on when he realised the benefits were not as much as he expected. His comments were that this was about four years after the installation. But in his response Mr C only mentions there being a fault with the battery at that time. There is nothing about the savings being insufficient to cover the loan repayments. It is not clear from his response that this is actually an issue he is concerned with.

In any case, if Mr C had expected the savings to cover the loan repayments I think he would've realised there was a problem soon after installation, since it was never likely that the battery would provide that level of savings. And his electricity bills would not have reduced sufficiently to cover the loan repayments.

This undermines Mr C's claim because I would've expected him to notice the problem and take action in 2017 when the supplier was still in business. That it has taken Mr C so long to do anything about this – and indeed by his own comments didn't even notice a problem for four years (and that a different problem), undermines his allegation.

Overall, I am not persuaded that the supplier misrepresented the battery as being self-funding in the way alleged.

Unfair relationship

I have thought about whether a court might conclude the relationship between Ikano and Mr C is unfair on him. And I have seen nothing to make me think that a court would conclude

that. So, I see no reason to say that Ikano should've accepted Mr C's claim under Section 140.

The CMC's additional comments

The report provided by Mr C indicates that the solar company cannot provide a monitoring service since Mr C's solar panel system does not have micro-inverters below each solar panel, which are required to allow remote monitoring.

I am not persuaded that this indicates the installation of the battery was faulty or not fit for purpose. It seems that Mr C's existing solar panel system uses a single inverter, which is not unusual. There is nothing in the battery contract that suggests that new micro-inverters were included in what Mr C purchased or that he bought the battery on the understanding it could be monitored remotely. It appears that the contract was for a battery to be connected to his existing system, which is what he was provided with.

So, I am not persuaded that there is evidence of a fundamental fault with the battery installation.

I can see that Ikano had the system inspected as a result of a separate claim about the battery not charging properly. Ikano's summary of the report it obtained – as it explained it to Mr C – was that the inspection showed the battery was working properly. Given that report was obtained in relation to a different claim and appears to confirm the battery was installed correctly, I do not think it is necessary for me to obtain this report.

This final decision is only in relation to the claim made on 25 October 2022 and the complaint that resulted from this. So, I think it would be open for Mr C to further pursue that other claim (about the battery not charging) with Ikano if he wanted to and if he felt it was worthwhile (bearing in mind it seems the battery was inspected and was found to be working properly).

Summary of my findings

I am not persuaded that there was a misrepresentation or breach of contract on the part of the supplier as alleged in Mr C's letter of claim dated 25 October 2022. Nor do I think a court would find the relationship between Ikano and Mr C was unfair on him. So, I don't think Ikano did anything wrong in rejecting Mr C's claim or complaint

My final decision

For the reasons I've explained, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 14 February 2024.

Phillip Lai-Fang
Ombudsman