

The complaint

Mr S complains that Nationwide Building Society declined his claim under section 75 of the Consumer Credit Act 1974.

What happened

In 2014 Mr S purchased a shower from a merchant. In 2018 the shower developed a fault. Mr S used his Nationwide credit card to pay for repairs.

In 2022 the shower failed again. Mr S asked the merchant to replace it. The merchant offered Mr S a 10% reduction on the cost of a new shower which Mr S says he accepted under protest. Mr S used his Nationwide credit card to pay £637.20 for the replacement shower.

Mr S contacted Nationwide and said he wanted to make a claim under section 75. He sought a refund of 50% of the cost of the new shower plus compensation.

Nationwide investigated the claim and contacted the merchant. The merchant responded and disputed the claim. It said that although it wasn't common for a shower to have the same fault twice in four years, it could happen, and that in Mr S's case the fault had been caused by limescale build up.

Nationwide declined the claim. It said there wasn't enough evidence to show that there had been a breach of contract.

Mr S was unhappy with the outcome and complained to this service.

Our investigator didn't uphold the complaint. They said there wasn't enough evidence to show that there had been a breach of contract and concluded that Nationwide had reached the correct outcome.

Mr S didn't agree. He provided links to some customer reviews of the merchant and said the goods hadn't lasted for a reasonable period of time.

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.

In certain circumstances, section 75 gives a consumer a right to claim against a supplier of goods or a provider of credit if there's been a breach of contract or a misrepresentation.

In order to uphold Mr S's complaint, I would need to be satisfied that there's been a breach of contract or a misrepresentation and that Nationwide's response to the claim under section 75 wasn't fair or reasonable.

Mr S hasn't said that there's been a misrepresentation, so I've focussed on whether there's been a breach of contract.

The relevant law says that goods must be of satisfactory quality when supplied. The quality of goods includes their general state and condition, as well as things like fitness for purpose, appearance and finish, freedom from minor defects, safety and durability.

Mr S purchase the shower in 2014. It was repaired in 2018 and replaced in 2022. In order to show that there's been a breach of contract, Mr S would need to provide evidence to show that the shower was faulty at the point of supply, or that the repairs hadn't been carried out with reasonable care and skill.

I appreciate that Mr S has told this service that the shower stopped working, but this doesn't establish whether there was a fault with the shower at the point of supply, or whether the repairs fell below standard.

Mr S's main point is that the shower should have lasted longer than it did. I appreciate that it must've been frustrating for Mr S to experience an issue with the shower only four years after it had been repaired. I've thought carefully about this, and I've considered whether the shower was sufficiently durable, because durability is one aspect of satisfactory quality. Having done so, I'm not in a position to say that the shower wasn't of satisfactory quality. There isn't enough evidence to persuade me that the shower failed prematurely. The comments by the merchant about limescale build up suggest that the issue may have been caused by general wear and tear.

On balance, I'm unable to say that the shower wasn't of satisfactory quality or that a breach of contract has occurred. I don't think Nationwide acted unfairly or unreasonably when it declined the claim under section 75.

Mr S has raised some customer service issues. He's unhappy about the time it took for Nationwide to provide him with copies of his credit card statements. I've looked into this, and I can see that Mr S requested the statements on 24 November 2022. Nationwide sent the statements on 8 December 2022. Mr S didn't receive the statements and on 19 December 2022 he raised a complaint. Mr S feels that Nationwide should've provided the statements electronically.

I've thought about this. However, I can't fairly hold Nationwide responsible for delays in the postal service which are beyond its control. And because we aren't a regulator, we can't ask Nationwide to change its processes or to provide information in a certain way. Whilst I appreciate Mr S's frustration, I don't think the delay impacted on his ability to raise the section 75 claim.

For these reasons, I won't be asking Nationwide to do anything further.

My final decision

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 6 December 2023.

Emma Davy
Ombudsman