

Furniture a gift

Supplier told consumer furniture was a gift: proof of signed agreement

Complaint ref : **2013517356**
Adjudicator : **Bonita Hughes**
Date : **2 December 2013**

1. Summary of your complaint

In May 2012 you received a call from the supplier to inform you that they will be delivering furniture as a gift for being a loyal customer. The goods were delivered after which you were called to come and sign for the goods. In the meantime you applied for a loan through Standard Bank to settle all your accounts.

The supplier added the cost of the goods which were given as a gift to your account. The loan received from Standard Bank was therefore not enough to settle all your debt as most of the funds went to the supplier to settle your account with them.

The goods were given as a gift and should not have been added to your account.

2. Summary of the supplier's response

The supplier advised that according to their records you applied for a loan at Standard Bank to settle your accounts. When the loan amount was paid into the supplier's account on the 24th of May 2012, Standard Bank overpaid the supplier's account with R14 419.84.

The supplier contacted you and asked if you want to purchase goods to the value of the amount paid in excess (R14 419.84) or if they should refund you the amount.

You requested to purchase stock and completed all the necessary documentation on the 11th of June 2012.

The goods were delivered on the 13th & 15th of June 2012.

In terms of the supplier's documentation the goods were therefore first signed for and thereafter delivered.

3. Assessment

We have considered all the evidence presented by both you and the supplier and advise as follows:

The supplier provided the following documentation in connection with the goods sold to the value of R14 401.00:

- Proof of the funds paid into the supplier's bank account by Standard Bank.
- Proof of purchase – date and amount.
- Proof of delivery.

In terms of the documents provided by the supplier the following was noted:

Standard Bank paid the funds into the supplier's bank account on the 24th of May 2012.

On the 11th of June 2013 a purchase agreement for the goods was entered into. The agreement stated that the cost of the goods is R14 401.00.

The proof of delivery shows that the goods were delivered on the 13th and 15th of June 2012.

Based on the documentation it appears that you first applied for a loan, then purchased the goods after which it was delivered.

In terms of the purchase agreement it reflects the total amount of R14 401.00 repayable. We do not believe that a reasonable person would sign an agreement stating a repayable amount and believe that they are receiving a gift. We also do not consider it reasonable for someone to consider goods to the value of R14 400.00 to be a gift.

4. Conclusion

In terms of the signed agreement we have no legal basis to conclude that the supplier offered the goods to you as a gift. We can thus not instruct them to give you the goods as a gift and not charge you for same.

The supplier advised that they will however give you a refund for the goods if the goods are returned to the supplier. We consider this to be fair and reasonable.

