

complaint

Mr S has complained that Shop Direct Finance Company Limited, trading as isme, has not agreed to refund the cost of a laptop he bought from them. He believes the laptop is not satisfactory.

background

Mr S bought a laptop from isme in November 2013. It developed a fault with the hard drive. isme asked him to get it fixed by the manufacturer, which he did.

Within five months the same fault re-occurred. Mr S did not want to get it fixed by the manufacturer again which isme said he had to do. He brought his complaint to the ombudsman service.

Our adjudicator told isme that she felt it was fair that they refund the cost of the faulty laptop. They felt that Mr S was required to show this was a manufacturing defect since he'd had the laptop more than six months.

This case has been referred to an ombudsman to make a final decision.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Mr S's complaint is that the laptop he bought was not satisfactory quality when it was sold. If this were the case, it would not meet the requirements of the Sale of Goods Act 1979. As the terms of this legislation are implied terms when something is sold under a finance agreement, it would be fair to hold isme liable if I consider the laptop is not satisfactory quality.

It's worth stating upfront that I believe Mr S's laptop is not satisfactory quality. The main reason for saying this is that it developed a fault within six months which I don't think has ever been properly sorted. I appreciate that we have no independent report to show the fault second-time around is the same as the first but I believe this is a reasonable assumption. I base this view on Mr S's evidence which, in other respects, matches isme's customer records.

As this was a fault with the hard drive, I think it's clear that this is a manufacturing defect. And therefore isme is liable to refund the cost of the laptop.

I know that isme disagrees with our adjudicator's view but I broadly agree with her reasoning and conclusions. In particular when the hard drive fault first occurred, Mr S thought he had no option but to get it repaired as this was isme's policy. I think it's worth saying that this was not a very expensive laptop and the hard drive failure was total. In fact he had the right then to obtain a refund for unsatisfactory goods which was never made clear to him. I believe he'd have gone down that road if he'd known.

I also agree that it seems that Mr S was given a bit of a run-around by isme. And I think this has meant that he's been even less keen to let them sort out any problems further. To compensate him for the inconvenience caused and the cost of telephone calls, it seems fair

to me that isme refund him the full cost of the laptop. And this offsets any use he has made of the laptop.

I am aware that Mr S has replaced the faulty laptop and paid off the credit agreement in full. As I'm asking isme to refund the cost in full, they will be able to get the laptop back but this will be at their own expense. Isme must confirm by 8 June 2015 if they wish to seek recovery of the laptop from him.

my final decision

For the reasons stated above, my final decision is to uphold Mr S's complaint. I instruct Shop Direct Finance Company Limited, trading as isme, to refund him the full cost of the laptop.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr S to accept or reject my decision before 8 June 2015.

Sandra Quinn
ombudsman