

EXAMPLE SUMMARY ADVICE

Question

I bought some summer garden chairs and table in the sales last Autumn. I have kept them in the shed in their boxes. When I opened them today I found that some of them were damaged - some have split wood on the legs, and one has a large rip in the seating material. I took them back to the store to demand a refund, but the company refused, saying there was nothing I could do about it as I have had them for more than 6 months.

ANSWER

As you bought these before 1st October 2015, the Sale of Goods Act would apply, and the trader is correct in that you will not be able to "reject" the chairs and ask for a full refund, as you have retained them beyond what the law would regard as a reasonable time, without intimating to the seller that you would be rejecting them. Also even if they were purchased after the 1st October the position would not only be the same but would also be a lot clearer, this is because under the Consumer Rights Act 2015, you have a 30 day period from receipt of the goods in order to reject them.

However, even under both the Sale of Goods Act and the Consumer Rights Act, they are wrong in saying you cannot do anything about it.

Under the Sale of Goods Act (position BEFORE 1st October 2015)

When you buy goods they have to be of satisfactory quality - in this instance, it does not need to be explained what that means, as clearly they were not of satisfactory quality. When goods are not of satisfactory quality, you can reject, provided you do so within a reasonable period of time - usually 3/4 weeks after the date of purchase. In your case, you would not be able to reject as you had time to inspect the chairs. However, you can still ask the store to repair or replace the chairs and in reality they will get to choose. They must repair or replace them within a reasonable period of time and without causing significant inconvenience. In this case, a reasonable period of time would be in the region of 2 weeks. If they cannot do it in that time, you can ask to rescind the contract and ask for a partial refund.

The problem that you will face is that, as you have had the chairs for more than 6 months, you will have to prove that they were sold with those faults, and that they have not been caused by you. You may be able to do this by having an independent inspection carried out - ask the store if they would be willing to pay half towards the report. You could also obtain an independent report from the Furniture Ombudsman.

If you paid for the chairs on credit card and (providing they are a set) they cost more than £100 then any claim you have against the store you can also bring against the card provider under Section 75 of the Consumer Credit Act 1974.

I would suggest that you write to the store, setting out what was said to you, and the above position, asking for a response within 14 days, and copy the letter to your credit card company stating that

you are also looking to them under Section 75 of the Consumer Credit Act 1974 for breach of contract.

Under the Consumer Rights Act

Just like the Sale of Goods Act, under the Consumer Rights Act when you buy goods they have to be of satisfactory quality – this means that they must be of a standard that a reasonable person would regard as satisfactory. When assessing this, it is important that all relevant circumstances are considered, including the price (the higher the price, the more expectation of quality), any description applied to the goods, and any of the traders or the manufacturer's advertising relating to those goods. In this instance, it does not need to be explained what that means, as clearly they were not of satisfactory quality.

When goods are not of satisfactory quality, under the Consumer Rights Act you can reject the goods, provided you do so within the first 30 days of receiving them. In your case, you would not be able to reject as you did not do so within this 30 day period. However, even though you have lost your right to reject the table and chairs, you will still be entitled to claim a repair or replacement, a refund or a reduction in price.

If, having made a request, for either a repair or replacement, if that repair or replacement is not successful – or if another fault occurs – or it is not done within a reasonable time without causing you significant inconvenience, then you can then demand either a refund, or a reduction in price.

Unlike the old position, under the CRA you do not have to give the trader multiple attempts at repair/replacement. However, the retailer would be entitled to reduce the amount refunded as more than six months has passed. Any price reduction must be an appropriate amount, which will depend on all the circumstances of the claim.

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Under the CRA the trader is responsible for the reasonable cost of returning the goods except where you have decided to return them to the place where you actually physically bought them. However, the Act makes it clear that you are not required to return the goods to this place unless this was agreed from the outset as part of the contract. However even if you do decide to return the goods to

the shop where you bought them, you may in some circumstances be able to claim some or all of that cost from the trader. Ultimately it would be up to the court to decide.