

Press Distribution Charter

Stage 3 - Independent Arbitration Decision

PDC Reference Number:

PDC215228/20/02/2017

Date First Issued:

03/03/2017

Name of Arbitrator:

Neil Robinson

Date complaint sent to Arbitrator:

22/02/2017

In the matter of the Arbitration Act 1996 and in the matter of a dispute between Miss Retailer and Smiths News (SN), Unit 16 -17 Cranford Way, Hornsey, London, N8 9DG. This complaint concerns alleged failure by Smiths News to recompense Miss Retailer for the cost of replacing a lock in her shutters occasioned when the SN driver tried to open the shutters.

Miss Retailer claims that on 11/01/2017 the SN delivery man broke the key in the lock to her shutters rendering the lock and security shutters inoperable. She had not previously experienced any problems with the lock. Miss Retailer's driver returned to her shop at the end of his round to report the incident to her. Miss Retailer contacted SN and requested that it reimburse her in the sum of £361 being the cost gaining entry to her premises and replacing the lock in the shutters. She acknowledges that SN made a goodwill offer of £95.

For its part SN accept the basic facts in that the key of the shutters broke in the lock when its driver attempted entry, but the driver is adamant that he did not exert any undue pressure on the lock. It offered to cover the cost of a replacement lock and keys, however believe that Miss Retailer's invoiced costs are excessive and unreasonable. It has contacted three local locksmiths to Retailer News and received quotations of £120, £119 and £109 for work similar to that carried out. SN offered Miss Retailer "the market rate cost of the labour".

Having considered all of the evidence submitted I adjudicate as follows:

1. The Press Distribution Charter does not include a standard covering this situation.
2. Standard 3.14 provides that "Wholesalers will be responsible for the cost of replacement keys for security boxes or secure areas if lost whilst within their control."
3. I do not believe that standard 3.14 covers a key broken in the lock of security shutters whilst attempting to open it.
4. SN did not have an obligation to replace the lock and keys under the PDC. However, it did make an offer to cover the costs involved in replacing the lock and keys and it should be commended for the goodwill gesture. Having said that, it will always be implied that such costs are fair and reasonable.

5. Keys do wear out due to continued use and this does manifest itself with a break when trying to open or close the lock. Maintenance of the shutters and locks is the responsibility of the person holding the tenure of the property.

6. Obviously Miss Retailer wanted to open her shop as quickly as possible, so she probably went to the first locksmith she could find without getting an estimate for the work or regard to the cost.

7. This is a most unfortunate incident for both parties and is complicated by the fact that it is not covered by the PDC. It is my opinion that the key probably broke as a result of fare wear and tear, not any violent action by the delivery driver.

8. SN made an offer of a goodwill payment of £95 as it considered that Miss Retailer's costs were excessive.

9. I recommend that SN make a goodwill payment of £180 to Miss Retailer. and that she accepts the same in the spirit that it is given.

Neil Robinson

Signature of Arbitrator: _____

Date: 14th March 2017

Seat of Arbitration: London, England.

Date form returned to PDC Administrator:

14/03/2017

Date Independent Arbitration Decision sent to Wholesaler & Retailer:

14/03/2017