

Press Distribution Charter

Stage 3 - Independent Arbitration Decision

PDC Reference Number:

PDC223415/26/05/2016

Date First Issued:

26/05/2016

Name of Arbitrator:

Neil Robinson

Date complaint sent to Arbitrator:

20/6/2016

In the matter of the Arbitration Act 1996 and in the matter of a dispute between Mr Retailer and Smiths News Hornsey (SN), 16 - 17 Cranford Way, London, N8 9DG. This complaint concerns alleged failure by Smiths News to credit Mr. Rajendran for newspaper returns relating to Sunday 03/04/2016.

Mr Retailer complains that he made a newspaper returns parcel up with the appropriate returns note and handed it to the Smiths News driver. He did not receive the credit for the returns from Smiths News.

Smiths News maintains that the returns parcel for 03/04/2016 was never received and therefore no credit was given.

I have considered all of the submissions and evidence before me and adjudicate as follows:

1. Unfortunately, Mr Retailer did not submit a full Statement of Case form instead choosing to rely on notes of a telephone conversation he had with the PDF Administrator on 18/05/2016 and recorded in an email to him dated 19/05/2016.
2. Mr Retailer originally notified SN that, as the returns parcel for 03/04/2016 was small; it was attached to Monday's returns parcel and handed to the SN driver on Tuesday 05/04/2016.
3. Mr Retailer subsequently remembered that the returns were actually handed to the SN driver on Monday 04/04/2016 and not Tuesday 05/04/2016 as he had originally thought.
4. The change of dates above had been caused by Mr. Retailer's reference to CCTV footage. Furthermore, Mr Retailer recalled that the SN delivery on Monday 04/04/2016 had been very late by a driver that was not his regular driver.
5. Mr Retailer claims that the CCTV showed a bundle of newspaper returns being handed to the driver. He also provided a copy of the returns note for 03/04/2016.
6. From their Statement of Case, SN appears to have been expecting video footage of the two returns parcels being bundled together.
7. There is obviously a contradiction here caused by a misunderstanding between the parties.

8. Three still photographs were forwarded by Mr Retailer to SN on 30/04/2016 which failed to demonstrate that the returns of 03/04/2016 were attached to another parcel. I have no evidence before me to identify exactly what the photographs showed.

9. Mr Retailer later reported to SN that the video footage relating to the returns parcel/s could not be obtained as the tape had been wiped clean due to the time elapse of 30 days. I am a little surprised by this as the CCTV footage could have been saved well within the 30 days before it was eventually wiped off.

10. SN maintain that on 09/05/2016, when notifying them of the fact that the CCTV had been wiped, Mr Retailer stated that he had not tied two returns parcels together as previously advised.

11. SN state that its records indicate no returns have been collected for 03/04/2016.

12. Unfortunately no firm evidence has been presented to me in support of either party to this case and I accept that in practise this is unavoidable. Instead, there is confusion surrounding the content of Mr. Retailer's CCTV footage and evidence from Mr Retailer himself that he was originally confused concerning the exact day on which his returns parcel for 03/04/2016 was presented to SN.

13. In all the circumstances of this case, I find that the complaint has failed.

Neil Robinson

Signature of Arbitrator: _____

Date: 24th June 2016

Seat of Arbitration: London, England.

Date form returned to PDC Administrator:

24/06/2016

Date Independent Arbitration Decision
sent to Wholesaler & Retailer:

24/06/2016