

Press Distribution Charter

Stage 2 - Independent Arbitration Decision

PDC Reference Number:

PDC/109040/160721

Date First Issued:

16/07/2021

Name of Arbitrator:

Neil Robinson B.A. (Law), M.C.I.Arb.

Date complaint sent to Arbitrator:

18/08/2021

Independent Arbitration Decision

In the matter of the Arbitration Act 1996 and in the matter of a dispute between Mr. B. and Menzies Distribution Limited (MD), Unit 110A, Tustin Way, Longridge Road, Preston PR2. This complaint concerns alleged failure by MD to deliver all titles and their appropriate sections no later than the Retailer Delivery Time (RDT) or Scheduled Delivery Time (SDT) for the day of sale contrary to Part 1 of its 'Customer Service Pledge', Fourth Edition.

Mr. B. complains (online dated 10/05/2021) that he has suffered persistent lateness of delivery on a Monday for a considerable period of time. Unfortunately he has failed to provide a detailed schedule of the service failure or the consequential losses on sales of newspapers and magazines.

MD responded by letter dated 27/05/2021 advising that the contractor on Mr. B.'s run was having issues with its Monday driver. The contractor had spoken to the driver and assurances had been given that improvements would be implemented. The drivers scan times had been subsequently looked at and it appeared that Mr. B. was receiving his delivery on time. MD apologised for any inconvenience caused.

By Step 2 Arbitration - Wholesale Statement of Case MD advised that it had reviewed Mr. B.'s actual delivery times since June and delivery times average out at 06.00. MD pointed out that Mr. B. Retail Delivery Time is 07.00. Furthermore that there had been no delivery complaints since June 2021. MD maintained that they would consider restitution claims for previous late delivery.

Having considered all of the evidence submitted in this case, I adjudicate as follows:

1. This complaint has been presented to me in a very vague way with little attention to specific detail. However, it is clear to me that Mr. B. has been experiencing late deliveries on a Monday for a number of months. MD accepts this and has taken steps to remedy the problem and its action seems to have resolved the issue. MD has also offered restitution and provided a claim form for that purpose.

2. MD has declared that Mr. B.'s RDT is 07.00 and Mr. B. has not expressed anything that would throw doubt on this. Mr. B. seeks his papers by 06.00 which allows him 15 minutes to make up his paper rounds prior to opening. I must stress that if Mr. B.'s RDT is 07.00 he cannot claim service failure if his newspapers and magazines are delivered before that time. He needs to talk to MD about amending his RDT.

3. If Mr. B.'s delivery has been after 07.00 he is able to claim restitution for additional costs incurred servicing home news delivery and/or loss of margin on lost sales.
4. For the avoidance of doubt restitution is calculated as follows:
 - a) In circumstances where the wholesaler is at fault for the non-delivery of products or under-allocation of product the wholesaler will reimburse the customer for lost margin on the sale of that product.
 - b) In circumstances where the wholesaler was at fault for late delivery of products and the lateness necessitated the redelivery of HND copy the wholesaler will reimburse the customer 55p per copy redelivered, with a minimum award of £5.50.
5. The Press Distribution Complaints Process cannot be used if the incident complained of occurred more than three months ago. In these circumstance Mr. B.'s restitution claim is limited to a three month period preceding the date of his originating complaint i.e. 10/05/2021.
6. If Mr. B. now seeks restitution he should complete the MD Wholesaler Fast Track Restitution Claim and submit the same to MD for approval. If there is any dispute arising out of the claim the matter to be returned to me for further adjudication.
7. I am pleased to note that delivery times to Mr. B. have been improved and trust that the situation continues.

Neil Robinson

Signature of Arbitrator: _____

Date: 20th August 2021

Seat of Arbitration: London, England.

Date form returned to PDC Administrator:

20/08/2021

Date Independent Arbitration Decision
sent to Wholesaler & Retailer:

20/08/2021