

Press Distribution Charter

Stage 3 - Independent Arbitration Decision

PDC Reference Number:

PDC219562/28/07/2014

Date First Issued:

28/07/2014

Name of Arbitrator:

Neil Robinson

Date complaint sent to Arbitrator:

05/09/2014 - Further and better particulars requested

In the matter of the Arbitration Act 1996 and in the matter of a dispute between Retailer and Smiths News, Longbridge Hayes Industrial Estate, Stoke on Trent. This complaint concerns alleged failure by Smiths News to deliver all titles no later than the Retail Delivery Time (RDT) of 05.30 in accordance with Press Distribution Standard (PDC) 2.1.

Mr. Retailer claims that over an eleven week period between 4th May and 12th July 2014 he suffered persistent lateness of supply which resulted in loss of sales that he estimated to be valued at £250. He made representations to Smiths News, but these failed to resolve the issues. Eventually he made a Stage 2 PDC Complaint at the end of July 2014 which was not actioned by Smiths News. Ultimately he referred the matter to me at Stage 3.

Smiths News admits that it had difficulties meeting Mr. Retailer's RDT over the period concerned which was caused by a new driver taking over the route. A senior representative visited Mr. Retailer to apologise for the issue and the delays that had been experienced trying to resolve the matter. Smiths News believes that Mr. Retailer has failed to substantiate his claim for restitution in the sum of £250. It is investigating the occasions of lateness and trying to estimate the potential loss of sales. Smiths News has also offered a restitution payment to Mr. Retailer of £50.23 representing one week's Delivery Service Charge.

Having considered all the evidence before me in this case, I adjudicate as follows:

1. There is no doubt that Mr. Retailer suffered serious and persistent lateness over the eleven week period being complained about. I am pleased that the timeliness of delivery has improved and that Mr. Retailer's RDT is now being met.
2. The issue that I am being required to adjudicate on therefore concerns the amount of restitution that is appropriate in this case. In the first instance Mr. Retailer supplied evidence of his £250 losses based upon comparison gross weekly takings in his shop for the eleven weeks over which the problems occurred. In view of the fact that the PDC only provides for restitution on the loss of sales and associated costs for newspapers and magazines, it was necessary for me to request further and better particulars of the same from him.
3. Mr. Retailer has now provided detailed information of his lost sales in the sum of £78.98 and, accordingly I award him such sum which Smiths News should pay or credit within 14 days of the date of this adjudication.

4. Mr. Retailer has not claimed restitution for any additional costs that he incurred as a result of the serious and persistent lateness. It is not clear from the evidence before me as to whether Mr. Retailer did actually receive one week's Delivery Service Charge in the sum of £50.23. If such sum has been paid, I direct that it should be retained to cover any additional costs incurred in whole or in part. If such sum has not been paid I direct that Smiths News make such payment or credit within 14 days of the date of this adjudication.

5. I am seriously concerned by the way that Smiths News has handled this case. There appears to have been a total failure to respond to Mr. Retailer's PDC Stage 2 Complaint which made it necessary for him to escalate it to Stage 3. Furthermore, Smiths News, Stoke on Trent, has blatantly failed to record the complaint in its monthly statistics forwarded to the Press Distribution Review Panel. Such disregard cannot be tolerated and Smiths News is urged to take appropriate measures necessary to rectify the situation. I recognise the input of Smiths News's Nottingham Group Manager, Robert Drummond, in his handling at Stage 3.

Neil Robinson

Signature of Arbitrator: _____ (email)

Date: 23rd September 2014

Seat of Arbitration: London, England.

Date form returned to PDC Administrator:

23/09/2014

Date Independent Arbitration Decision
sent to Wholesaler & Retailer:

23/09/2014