

# [brief cases]

Two legal cases from our files

## Simply not on

Simply Stairlifts sold Kathleen an unsuitable stairlift

The £5,115 stairlift Kathleen Bolton bought from Simply Stairlifts turned out to have none of the features the sales rep said it had. When Kathleen rejected it, the company suggested she spend almost another £1,000 on an alternative model to get the features promised. It took the threat of court action for Simply Stairlifts to foot the bill for the difference.

Kathleen decided to have a stairlift installed when her mother, Mrs Arnold, started to have problems climbing the stairs at home. She went to lots of different companies and finally settled on Simply Stairlifts because it could supply a stairlift with features that Kathleen and her mother thought worth having. These included a grab rail, battery back-up in the event of a power cut and a safety cut-out to stop the stairlift working unless her mother was wearing a seat belt. The crucial thing about it, though, was the fact that it would wrap round the bottom of the stairs and fold away when not in use. It was a reconditioned model, but the rep told Kathleen it would be re-covered in a brand new fabric. So, trusting all that the rep said, Kathleen signed a contract and paid a £510 deposit.

The stairlift was installed six weeks later. To Kathleen and her mother's dismay, it had none of the features promised. It couldn't be folded away but instead caused a major obstruction, making negotiating the staircase a hazard. There was no grab rail, no back-up to keep the stairlift working in a power cut, and no mechanism to stop it working if her mother wasn't wearing a seat belt. It also looked as if it hadn't been refurbished. So the next day, Kathleen wrote to Simply Stairlifts to say she was rejecting it. Simply Stairlifts offered to buy the stairlift back provided Kathleen bought the next model up. This cost £6,149. Once again, she was assured that the stairlift would be suitable but, not surprisingly, Kathleen wasn't prepared to pay the extra. She asked Which? Legal Service to help.

Our advisers told Kathleen she had a claim for misrepresentation, as the sales rep should have been aware that the stairlift didn't have the features he'd said. We helped Kathleen prepare for court but before the case was heard, Simply Stairlifts agreed to remove the stairlift for free and to give Kathleen £964 towards the difference in price between the original stairlift and the alternative model.

### POINT OF LAW

In cases of misrepresentation, you can cancel the contract. But you need to act quickly and reject the goods: any delay may be taken as meaning you accept the items and that the contract holds good.

## When a noise annoys

Joe was driven mad when his car kept beeping at him

The courts awarded Joe Kelliher £921 when Avalon Citroën of Glastonbury failed to fix a fault on his car.

Joe bought his new £18,935 Citroën 8 after a test drive. One of the features that had impressed him about the demo vehicle was the ultrasound sensors on the rear bumper, which beeped on and off when reversing to warn if something was in the way. Recalling the time his mother had



Joe Kelliher

reversed slap-bang into his house, Joe thought such a feature would be invaluable. The only trouble was that Joe's

car beeped as soon as he started to reverse, even when nothing was in the way – and it kept on beeping.

Joe noticed that his sensors were different from those on the demo car. He phoned Which? Legal Service.

Our advisers told Joe to reject the car. When Avalon wasn't prepared to offer any money or fix the fault, Joe came back to us. This time, we advised Joe to say he was accepting the car

'under protest', that he would give Avalon every chance to fix the fault but if it didn't, he'd get a report from an independent expert.

Avalon still hadn't fixed the fault after six months so Joe called in his expert. He agreed that the sensors had been faulty on delivery.

Joe took Avalon to court and was awarded £921. This covered the cost of a replacement bumper (and sensors) and the expert report.

### POINT OF LAW

Under the Sale of Goods Act, goods should match their description and be of satisfactory quality. If they aren't, you can ask the supplier to repair the goods. If it refuses, you can have a third party carry out the repairs and claim the cost from the supplier. You may have to go to court to recover the cost.