

Our ref: 201505-0137

ASSESSMENT: RETURN OF SHOES

Summary of your complaint

You purchased two pairs of leather shoes on 06 May 2015- one in red and one in black. The red pair fits perfectly but the black pair has a ripple effect over the toe area on both shoes.

You returned the shoes to the supplier who advised you that it is not a manufacturer's defect and that in terms of the store's policy you would have to accept a credit note.

You refused to accept the credit note and spoke with the Customer Service Manager who also advised that it is not a manufacturer's defect.

It was then agreed that the shoes will be send to the factory for testing. You received feedback, after the testing, that the shoes do not have a defect.

You could not understand this as the red pair fits perfectly but the black pair not. The manager advised that a different leather is used for the black shoes and that it does not mean that the shoes are defective.

You had an expectation that both pairs would be identical and feel the same as it is the same style and make.

You have tried on three other pairs and they all feel the same.

You feel that the shoes do not perform to the specifications of the red pair and therefore do not fit the purpose for which they were purchased.

You would like a refund.

Summary of the supplier's Response

According to the response the goods are not defective and cannot be returned in terms of the provisions of the Consumer Protection Act (CPA).

Their store's policy on returns apply and because the shoes were in a sellable condition they offer the consumer a credit note or exchange.

Kindly find attached supplier's response.

Assessment

We have considered all the evidence presented by both you and the supplier and advise as follows:

The most widely misunderstood aspect of the CPA is the right to return goods or cancel an agreement. Many people mistakenly believe that they have the absolute right to change their minds after buying something and

to return it for a refund.

The correct position is that there is only a cooling off period if direct marketing took place. The only other time you can cancel the transaction after the goods are delivered is if the goods were in some way defective within six months after you bought them. This right applies whether or not you could have detected the defect before taking delivery of the goods.

This does not mean that you should not try on or inspect the goods in the store. On the contrary, the CPA gives you the right to choose or examine goods and to select or reject any particular item from displayed stock before completing the transaction (section 18). If you have had the opportunity to examine the goods before they are delivered, you lose the right under section 20(2) to return them to the supplier and receive a full refund after they have been delivered to you.

It is essential that you inspect the goods before delivery because, unless the shop has a refund policy, it is not obliged to take back goods that:

- You change your mind about;
- Your partner does not like;
- Do not match your other clothes/ furniture;
- Do not fit (unless the goods were in a sealed package);
- Are uncomfortable to wear;
- Are uncomfortable to sit/ sleep on;
- You realise you cannot afford.

In this instance you had an opportunity to inspect and to fit the shoes before buying it. The fact that the shoes do not sit as comfortable or exactly the same as the red pair is not sufficient grounds to instruct the store to refund you.

The store has however offered you a credit note, we consider this offer to be fair and reasonable.

Based on the facts of this case, the information and evidence furnished to this office and on the principles of reasonableness and fairness, there is no reasonable prospect of this office making a recommendation in your favour.

We regret that we cannot be of assistance and confirm that our file has been closed.

You are advised that you may now take such other steps as you wish or refer the complaint to the National Consumer Commission in accordance with section 71:

71. (1) Any person may file a complaint concerning a matter contemplated in section 69 (1)(c)(ii) or (2)(b) with the Commission in the prescribed manner and form, alleging that a person has acted in a manner inconsistent with this Act.

The Commission may be contacted at:

Tel: 012 761 3000

Email: complaints@thencc.org.za

Yours faithfully

Bonita Hughes
Complaints Officer