

DETERMINATION

**Mr A
and
the electricity provider**

This is a determination of the Energy Industry Ombudsman NSW under Clause 6 of the Constitution of the Energy Industry Ombudsman NSW scheme.

Mr A's complaint

Mr A is seeking \$1,600 in compensation from the Electricity provider for the cost of installing a new stove and related kitchen renovations following low voltage levels which caused inadequate performance of his previous stove.

In response to Mr A's claim the Electricity provider offered an ex gratia payment of \$200, then \$400, but Mr A rejected these offers as inadequate.

History of the complaint

Mr and Mrs A purchased the property in 1995.

In September 1996, tired of what they describe as the poor performance of their oven and hot plates, they decided to replace these appliances. The original items were described as follows

- (a) Chef Baroness Model 061E Wall Oven
- (b) Whirlpool Model VHG945 Hot Plates

Mr & Mrs A had the following replacement appliances installed

- (a) Finesse Duo Oven Cost \$1,695
- (b) SMEG Ceramic Cooktop Cost \$ 945

The new appliances did not appear to work as well as they expected and Mr A eventually complained to the Electricity provider in June 1997. This complaint led to investigations by the Electricity provider which revealed that the power supplied to the A's home, at times of high load, was lower than called for in Australian Standard AS2926 +/- 6%.

Mr A sought compensation from the Electricity provider. In a letter dated 26 November 1997 he detailed his expenditure of "over \$3,000" in purchases and installation costs.

On 5 March 1998 the Electricity provider wrote to Mr A:

While it is accepted that you replaced the appliances to overcome poor performance the Electricity Provider did not cause any damage to the appliances and cannot accept any claim for compensation.

Alternative dispute resolution was sought by Mr A in terms of the customer contract. On 4 May 1998 the Electricity provider advised that they proposed to engage chartered loss adjusters as facilitators, and that a mediation meeting was to be arranged.

The Electricity provider also made at this time an offer of an *ex gratia* payment of \$400 to settle the matter. The As declined this offer.

On 24 June 1998 the mediation meeting took place at Mr and Mrs A's home with Mr W, (loss assessor) as the facilitator.

On 30 June 1998 Mr W issued a written determination, in which he found that the complaint was justified but that the basis upon which compensation was sought was unjustified. He determined that an amount of \$200 would be an equitable allowance for the inconvenience suffered.

Mr A had previously notified the Electricity provider in writing on 19 May 1998 that he did not agree to be bound by the determination. It was shortly after this mediation that Mr A contacted the Energy Industry Ombudsman NSW about his complaint. In his first letter to us dated 2 July 1998 Mr A stated:

My continuing contention - in a nutshell - Electricity supply should have been up to standard all along and finally, if not, hardly my responsibility to check it.

Mr A contends that he would not have had to replace his appliances if his electricity supply had been adequate, and that in replacing his stove he incurred additional expenses because of renovations needed to accommodate the new appliances.

Investigation by EION

In the course of our investigation of this complaint we considered the following:

- Information provided by Mr A
- Information provided by the Electricity provider
- Report by Mr W, Loss Adjuster.

We also commissioned an assessment by an independent loss adjuster. He visited the A's home and provided a detailed written report of his findings in this matter.

Assessment of the kitchen and appliances

The As replaced the wall oven which is built into the kitchen cupboard, and had adjustments made to the cupboard to accommodate the new oven.

The hotplate was also replaced, and adjustments made to the bench top to accommodate this. The As took the opportunity to install a new sink, but this is not part of the claim.

I accept that although the A's stove was reasonably old, it is not unusual for stoves to last many years, and that the As might not have considered buying a new one if they had not had problems caused by voltage variations. The independent loss adjuster for EION formed the view after his site visit that

taking into account the general condition of the house and most particularly the kitchen, we are quite sure that the original equipment would have been very well maintained. On this basis, we would think that a 40 year life expectancy is something that might be able to be obtained by Mr and Mrs A with the original equipment.

On the other hand, I consider that the stove was sufficiently old for the A's to form an initial view that it was the cause of their problems with cooking. I do not consider it unreasonable that the A's formed this view in the first instance without feeling the need to contact their electricity provider.

Mr A stated that he was not able to find the exact equivalent of his stove and hotplates, and chose a more elaborate system by way of replacement. He acknowledges that his kitchen has been upgraded as a result of these changes, and consequently he has not claimed for the total cost of the upgrade.

Areas of agreement and dispute

As I understand it, the following areas in this complaint are not in dispute:

1. That the A's experienced difficulties in performance of their wall oven and hotplates, and that these difficulties were caused by variations in voltage from 251 volts down to as low as 215 volts, well outside the Australian standard.
2. That the Electricity provider endeavoured to resolve the complaint by having Mr A's claim assessed by a loss adjuster and offering mediation in relation to the level of compensation.

The primary area in dispute is the amount of compensation for the As. The Electricity provider's most recent offer was an ex gratia payment of \$400. The Electricity provider noted that this was twice the amount previously proposed by their loss adjuster. Mr A rejected the amount of \$400 as insufficient and requested an Ombudsman determination of the matter.

Assessment of costs involved

The independent loss adjuster for EION suggested the following breakdown of costs:

Oven system replacement (recommended retail)	\$1,100
Hotplates replacement (recommended retail)	600
<i>Sub- total</i>	<i>\$1,700</i>
50% of recommended retail	850
Allowance for electrician	80
Allowance for carpenter	90
Material (estimate)	50
Total	\$1,070

Conclusion

On the basis of all the information provided, I believe the amount of \$1,070 is reasonable compensation for Mr and Mrs A for the replacement of their oven and hotplates following a significant period of low voltage power to their kitchen appliances. Although the A's might not have chosen to replace these items without the voltage variations, they have obtained a significant upgrade of their appliances and kitchen generally, and therefore a 50% discount of the recommended retail price of the goods is appropriate as a sharing of costs between the parties.

I note that although Mr A did not accept their offers of ex gratia payments, the Electricity provider has attempted to settle this matter in a reasonable manner.

Under the provision of Clause 6 of the Constitution of the Energy Industry Ombudsman NSW scheme I therefore determine that the Electricity provider should pay restitution to Mr A in the sum of \$1,070.

Under the EION Constitution, this decision is binding on the Electricity provider. Mr A may elect whether or not to accept this decision within twenty-one days. If Mr A accepts the decision, he will fully release the Electricity provider from all claims, actions, etc in relation to this complaint. In the event that Mr A does not accept my decision, he may pursue his remedies in any other forum he may choose and the Electricity provider is then fully released from the decision.

Clare Petre
Energy Industry Ombudsman NSW
25 February, 1999

