UCC: Seller’s Remedies

Were the goods ever “accepted” by buyer?

Did Buyer later revoke the acceptance?

Was the buyer’s revocation of acceptance wrongful?

Did the Buyer either wrongfully repudiate the K before the K were shipped or wrongfully reject the goods after receiving them?

Has seller RESOLD the goods?

Seller can collect the difference between the K price and the market price.

- See UCC § 2-708(1)
- Market price is determined as of the time and place of tender

Seller can collect the difference between the K price and the resale price.

- See UCC § 2-706(1)
- Resale must be made in good faith and in a commercially reasonable manner.

Courts disagree about whether seller can instead collect the difference between the K price and market price – the better view is that Seller may not do this.

If Buyer has paid a deposit, Seller can keep this deposit up to a max. of 20% of the K-price or $500 (whichever is less) even without a showing of actual damages but must return the balance

- See UCC §2-718(2)(b)
- However the amount kept by the seller may be > or < than this, if there is a valid LDC in the K.

If the K price\market-price differential will not adequately compensate Seller, Seller can collect lost profits.

- See UCC § 2-708(2)
- “lost profits” applies often when seller is a volume seller.

If the K price\resale-price differential will not adequately compensate Seller, Seller can collect lost profits.

- See UCC § 2-708(2)
- “lost profits” applies often when seller is a volume seller.

Seller is entitled to damages appropriate to situations in which Buyer has possession of the goods. The damages equal the unpaid balance of the contract price plus incidental damages.

- See UCC § 2-709(1)

Seller is NOT entitled to any remedies

Seller can collect the difference between the K price and the market price.

- See UCC § 2-708(1)

Check whether Buyer has an offsetting claim for breach by Seller (e.g. For slightly non-conforming goods, late delivery, etc.)

If the goods cannot be resold at a reasonable price, Seller can collect the entire K price.

- See UCC §2-709(1)(b)
- This remedy will apply where the goods were custom-made for Buyer, or where the market for the goods has virtually disappeared for some reason.

Add incidental damages, appropriate then subtract expenses saved as result of buyer’s breach.

- See UCC §2-710

If the Buyer either wrongfully repudiated the K before the K were shipped or wrongfully rejected the goods after receiving them, Seller is entitled to damages appropriate to situations in which Seller has possession of the goods.

- See UCC § 2-706(1)

Seller is entitled to damages appropriate to situations in which Buyer has possession of the goods.

- See UCC § 2-706(1)

Did buyer fail to pay the full K price?

Yes

Was buyer’s revocation of acceptance wrongful?

No

Yes

Did Buyer later revoke the acceptance?

No

Yes

Was the Buyer’s revocation of acceptance wrongful?

No

Yes

Did the Buyer either wrongfully repudiate the K before the K were shipped or wrongfully reject the goods after receiving them?

No

Yes

Has seller RESOLD the goods?

No

Yes

Seller is entitled to damages appropriate to situations in which Buyer has possession of the goods.

- See UCC § 2-706(1)

Resale must be made in good faith and in a commercially reasonable manner.

- See UCC § 2-708(2)

“lost profits” applies often when seller is a volume seller.