

The complaint

Miss S complains that Vanquis Bank Limited didn't raise a chargeback in respect of a holiday villa which didn't meet expectations.

What happened

In Miss S arranged to rent a holiday villa abroad for her family. She did so using an online booking company I will call B. The villa was supplied by a third party I will call V. She paid B using her Vanquis credit card.

Miss S has said the villa had numerous faults, such as raw sewage being discharged, broken blinds, a broken pool table, poor water pressure and ineffective heating of the pool amongst other issues. She has sent photos and videos which show these problems.

She complained to V and it addressed some of the faults and it also offered her alternative accommodation. Miss S and her family stayed for the entirety of the booking. Vanquis rejected her claim and she brought a complaint to this service.

It was considered by one of our investigators who didn't recommend it be upheld. After seeking clarification of the events, he concluded that Vanquis had given proper consideration to a chargeback claim and that section 75 of the Consumer Credit Act 1975 didn't apply. Miss S didn't agree and asked that the matter be referred to an ombudsman.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

My role in this matter is to consider the complaint against Vanquis. I do not have the power to address any complaint against either B or V. That said there are two routes by which a consumer, such as Miss S can seek redress from a credit card company, one is by a chargeback and the other is by making a claim under section 75 Consumer Credit Act 1975. I will deal with each separately. However, firstly I would wish to say that I do not dispute Miss S's claims about the state of the villa.

Chargeback is a process that is provided by the Card Scheme- in this case MasterCard. It allows customers to ask for a transaction to be reversed if there's a problem with the goods or services they've paid for. There's no automatic right to a chargeback. Nor is chargeback a guaranteed method of getting a refund. MasterCard checks the nature of the problem against the possible chargeback reasons to see whether the claim will be successful. If the bank feels that a claim won't be successful, they don't have to raise a chargeback.

There are limited grounds for a chargeback claim and Vanquis says it considered one under failure to provide the service, but as Miss S and her family had made use of the villa it didn't consider that would be successful. I must admit that I agree with that conclusion. If a claim had been made the merchant could simply have rejected it and although an appeal could have been made that too would have been highly unlikely to succeed. Rather than go down

this fruitless route Vanquis took a fair and reasonable decision to offer Miss S a goodwill gesture of £250.

Turing now to section 75 this offers protection to customers who use certain types of credit to make purchases of goods or services. Under section 75 the consumer has an equal right to claim against the provider of the credit or the retailer providing the goods or services, if there has been a misrepresentation or breach of contract on the supplier's part.

For section 75 to apply, the law effectively says that there has to be a:

- Debtor-creditor-supplier chain to an agreement *and*
- A clear breach of contract or misrepresentation by the supplier in the chain.

In this matter the debtor is Miss S, the creditor is Vanquis and the supplier is V. That means the chain as required by the law has been broken by the addition of B. When the chain is broken section 75 has no effect. In its terms and conditions B makes it clear it acts as an intermediary:

"By using or utilizing the Trip Service (e.g. by making a Trip Reservation through the Trip Service), you enter into a direct (legally binding) contractual relationship with the Trip Provider with which you make a reservation or purchase a product or service (as applicable). From the point at which you make your Trip Reservation, we act solely as an intermediary between you and the Trip Provider, transmitting the relevant details of your Trip Reservation to the relevant Trip Provider(s) and sending you a confirmation email for and on behalf of the Trip Provider. [B] does not (re)sell, rent out, offer any (travel) product or service".

This means that section 75 does not apply to Miss S's transaction and so I cannot direct Vanquis to offer her any redress. I appreciate Miss S will be disappointed by my decision, but there are no grounds that would allow me to uphold her complaint.

My final decision

Vanquis Bank Limited has already made an offer to pay £250 to settle the complaint and I think this offer is fair in all the circumstances. So my decision is that Vanquis Bank Limited should pay £250 if it has not already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 11 January 2021.

Ivor Graham
Ombudsman