

The complaint

Mr V complains that PayPal (Europe) Sarl et Cie SCA refused to refund him for a purchase that wasn't delivered to him under its Buyer Protection policy.

What happened

In mid-2021, Mr V purchased an item online. The next day he received notification from the courier that the item had been delivered and signed for, but he didn't receive it. Mr V says nobody was at home at the time. He says there were instructions for the delivery not to be left in a safe place and proof of identity was required because of the high value of the item.

Mr V says he tried to resolve the matter with the seller and the courier, but neither were willing to investigate it. He raised a claim with PayPal under its Buyer Protection policy, but PayPal found in favour of the seller.

Mr V complained to PayPal, but it said it was satisfied that its actions were correct, fair and reasonable. So, Mr V asked our service to look into his concerns.

Our investigator thought Mr V's complaint should be upheld. He thought Mr V had provided compelling evidence to show that the item hadn't been delivered. He didn't think it was fair for PayPal to have declined Mr V's Buyer Protection claim in light of this. He recommended that PayPal refund the value of the item to Mr V's PayPal credit account, remove any interest it had charged in relation to the item and pay him 8% statutory interest for any payments he'd made towards it. He also recommended that PayPal pay Mr V £100 for inconvenience.

PayPal disagreed with our investigator's view and asked for the matter to be considered by an ombudsman. It said it felt the tracking information it had received would be accepted in most cases. So, the complaint has been passed to me.

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.

Having done so, I've decided to uphold Mr V's complaint. I'll explain why.

PayPal's user agreement says that, in certain circumstances, a buyer who pays using a PayPal account may be entitled to *"reimbursement of the full purchase price of the item plus the original shipping costs (they) paid if any"*.

It goes on to say that PayPal Buyer protection may apply when *"you didn't receive your item for a seller (referred to as an "Item Not Received" claim)"*.

The user agreement also says:

"Your claim will not qualify for a refund under PayPal Buyer Protection for an Item Not Received claim, if...The seller has provided proof of delivery".

PayPal says Mr V's Buyer Protection claim was closed in favour of the seller because the seller had provided tracking information which confirmed delivery. It's provided a screenshot of the delivery information from the courier which suggests that the item was successfully delivered to Mr V's address. This includes the wording "*your parcel has been delivered and received by (Mr V's surname)*" followed by the time and date.

However, Mr V has provided evidence to show that the item wasn't delivered to his address. He's sent copies of the 'proof of delivery' photographs from the courier, along with photographs of items that were successfully delivered to his address by the same courier on other occasions. I think it's clear from these pictures that the item in question wasn't delivered to the same location. The door is a different colour and appears to open outward rather than inward. Mr V has also sent us copies of his chat history with PayPal where he's referred to the delivery photos indicating that there was no one there and it was not his door. So, I'm satisfied that Mr V's testimony to PayPal is consistent with what he told us, and he also sent it evidence to support it.

Mr V has tried to seek redress from all parties involved in the purchase. I can see that the seller told PayPal: "*Customer can initiate lost package investigation with (the courier)*." But Mr V has also provided a copy of his communication with the courier who told him that it would only be able to raise an investigation at the seller's request.

I appreciate PayPal would normally decline a Buyer Protection claim based on the information the seller had provided. But having considered all of the evidence, I don't think that doing this has resulted in a fair outcome for Mr V. I think PayPal should have considered the compelling evidence Mr V provided that showed the item *wasn't* delivered to him.

The basis for a purchase is that the item must be delivered to the buyer and the evidence I've considered shows that it likely wasn't. Because I don't think the seller's evidence proved the item was delivered, I don't think PayPal should rely on the exclusions in its policy to deny Mr V's claim under its Buyer Protection policy.

PayPal has a further clause that says:

"If the seller presents evidence that it delivered the goods to you, PayPal may find in favour of the seller for an Item Not Received claim even if you claim you did not receive the goods"

I've already explained why I don't think the evidence the seller provided shows that the item was delivered. It follows that I don't think PayPal can rely on this secondary clause to deny Mr V a refund.

I can see that Mr V has put a lot of time and effort trying to resolve this matter with PayPal, the seller and the courier. I think some of this could have been avoided if PayPal had accepted his claim. It was no doubt a worry for him that he might not be refunded what he'd paid for a high value item he hadn't received. So, I think it would be fair for PayPal to pay Mr V an additional £100 to compensate him for the distress and inconvenience he's experienced.

Putting things right

PayPal should:

- Refund Mr V the amount he paid for the item (£2,499.99) to his PayPal Credit account.
- Remove any interest he's been charged for the above.

- If Mr V has made any payments towards the purchase since the dispute was declined, PayPal should refund these to him along with 8% per annum simple interest from the date the payments were made until the date the payments are refunded.*
- Pay Mr V £100 for distress and inconvenience.

*HM Revenue & Customs requires PayPal to deduct tax from this interest. PayPal should give Mr V a certificate showing how much tax it's deducted if he asks for one.

My final decision

For the reasons I've explained, I uphold Mr V's complaint and direct PayPal (Europe) Sarl et Cie SCA to put things right by doing as I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr V to accept or reject my decision before 11 May 2022.

Anne Muscroft
Ombudsman