

The complaint

Miss R complains about PayPal (Europe) Sarl et Cie SCA and the service they provided when she raised a dispute about item's she'd purchased from an online retailer.

What happened

On 22 September 2021, Miss R made a purchase of £40.58 for four items from an online retailer, who I'll refer to as "X", using her PayPal account.

On 15 October, Miss R raised a claim under PayPal's Buyer Protection Policy (BPP), stating the items she received were "Significantly Not as Described". This is because Miss R had only received one of the four items, and the one item she'd received was faulty.

On 9 November, PayPal advised Miss R she would need to return the item she'd received to X, for a full refund to be issued. So, they asked Miss R to do this and provide them with tracking information before 19 November. Miss R didn't do this, so the claim was closed in X's favour. But Miss R was unhappy with this, so she raised a complaint.

Miss R didn't think PayPal had acted fairly when declining her claim. She didn't think it was fair for PayPal to stipulate she return the one, faulty item in order to receive a refund for the three items she didn't receive. Miss R explained, due to the location of X, it would cost her around £26 in postage fees to send the one item back which she didn't think was reasonable when the full refund would only equate to just under £41. So, she wanted PayPal to refund her the amount she'd paid as she thought X were a scam company, as highlighted in reviews she'd found on the internet.

PayPal responded and didn't agree. They thought they'd acted fairly, processing the claim in line with the terms and conditions of the user agreement Miss R entered into. But they recognised Miss R remained unhappy so offered to credit her account with £41 as a gesture of good will in full and final settlement of her complaint. Miss R remained unhappy with this, so she referred her complaint to us.

As the complaint was referred to our service, PayPal confirmed the offer made in their complaint response was no longer valid.

Our investigator looked into the complaint about upheld it. They recognised PayPal hadn't disputed Miss R's testimony that she only received one of four items. Or that the one item she did receive was faulty. So, our investigator didn't think PayPal had acted fairly when stating Miss R needed to return one item before receiving a refund for all four, even though this fell in line with the terms of the user agreement. They explained the cost of returning this one item was significant compared to the total refund she was looking for and they didn't think PayPal were reasonable to expect Miss R to incur this expense. So, they recommended PayPal refund Miss R the full claim total of £40.58 plus 8% interest from 9 November 2021 until the date it's paid to her to recognise the length of time she'd been without these funds unfairly.

Miss R accepted this recommendation. But PayPal didn't. They maintained their view that

they'd acted in line with the terms of the user agreement. So, they didn't think they'd acted unfairly or needed to do anything more. As PayPal didn't agree, the complaint has been passed to me for a decision.

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'm upholding the complaint for broadly the same reasons as the investigator. I've focused my comments on what I think is relevant. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

I'm aware PayPal haven't disputed Miss R's testimony regarding the number of items she ordered, the number she received and the condition of those. Because of this, when considering the complaint and reaching my decision, I see no reason for me to dispute any of the facts presented within this testimony.

So, I'm satisfied Miss R ordered four items from X, with a total value of £40.58. Neither PayPal nor Miss R have been able to provide me with an itemised breakdown of how much each item cost. And I'm satisfied Miss R only received one of these items, which arrived faulty.

So, I've thought about whether I think PayPal have acted fairly when processing Miss R's claim, considering these circumstances. And to do this, I've thought about two things. First, I've thought about whether PayPal have acted in line with the terms and conditions of their user agreement. And if I think they have, whether I think it was fair to do so. And on this occasion, I don't think it was.

PayPal have explained Miss R submitted her dispute as *"Significantly Not as Described"*. And they've said this is the correct classification of claim, as Miss R did receive one of the items and so couldn't qualify as *"Item Not Received"*.

As Miss R did receive one item, I don't think PayPal acted unfairly when classifying the claim in this way. And I've seen PayPal's user agreement which explains that, in claims of this nature, a customer must *"comply with PayPal's shipping requests in a timely manner"*. They go on to explain *"PayPal may require you, at your expense, to ship the item back to the seller"*. It's not in dispute that Miss R didn't do this so, I can't say PayPal acted outside of their terms and conditions when closing the claim in X's favour.

But as I've explained above, as well as considering whether PayPal acted in line with the terms and conditions of the user agreement, I also need to be satisfied they acted fairly when doing so. And I don't think PayPal did.

The terms of the BPP explain that it is PayPal's sole discretion to determine whether a claim qualifies. So, I think PayPal had the ability to consider Miss R's claim outside of the terms of the user agreement, if it was fair to do so.

And the term within the user agreement states that PayPal *"may require you, at your expense, to ship the item back to the seller"*. I think the term *"may"* is important here, as this suggests PayPal don't need to request a customer to do this in every claim. So, I think PayPal had the flexibility around this, to ensure a customer, in this case Miss R, is treated fairly.

In this situation, Miss R hadn't received three of the four items she received. So, I don't think it was fair for PayPal to say Miss R needed to return one item, to secure a refund for the three she didn't have to return.

And due to the location of X, I've seen the cost of returning this item to X would've been more than half of the total refund she wanted to claim back. And I don't think this is fair or reasonable. So, even though PayPal's user agreement allowed them to take the decision they did, I don't think it was fair for them to do so. Because of this, I've then thought about what I think PayPal should do to put things right.

Putting things right

Any direction or award I make is intended to place Miss R back in the position she would've been, had PayPal acted fairly. They aren't designed to place Miss R in a position of betterment as my decision must be fair to both parties.

So, I've thought about the position Miss R finds herself in. It's not in dispute that she is without three of the four items she ordered. Or that the one item she did receive is faulty. So, I don't think Miss R had received any item of value from X.

Had PayPal acted fairly, I think they would've assessed Miss R's claim and took into consideration her individual circumstances, including the cost of returning one faulty item to secure a full refund including the three items she didn't receive. And if they had acted reasonably, I would've expected PayPal to refund Miss R's claim in full at that point, under the terms of the BPP. I can see PayPal asked Miss R to return the faulty item to X on 9 November 2021. So, I'm satisfied this is when they initially reviewed the claim, and this is when I think the claim should've been upheld for the full amount.

So, to place Miss R back in the position she would've been in, I think PayPal should refund Miss R the entire value of the claim, £40.58, plus 8% interest from 9 November 2021 to the date this payment is made. This takes into consideration the length of time Miss R has been without these funds unfairly.

My final decision

For the reasons outlined above, I uphold Miss R's complaint about PayPal (Europe) Sarl et Cie SCA and I direct them to take the following action:

- Pay Miss R the full value of her disputed claim; and
- Pay Miss R 8% interest on this amount from 9 November 2021 to the date of payment.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 21 March 2022.

Josh Haskey
Ombudsman