

The complaint

Miss A complains PayPal (Europe) Sarl et Cie SCA have failed to provide a refund for an item she ordered but didn't receive. Miss A is also unhappy since she believes the interest free period on her account ceased when she raised her complaint.

What happened

Miss A made a purchase from a sports shop, which I'll call S, for £205 using her PayPal account. She says it was apparently delivered on 1 December 2021. The tracking information says the parcel was delivered to the porch but Miss A says she doesn't have a porch. Miss A says there was also a picture of the parcel at the front door but she never received the delivery.

Miss A says she contacted S who provided her with the tracking evidence from the courier and asked her to complete a claim form. Miss A says she chased S a week later and was asked to complete the form again. S told her it would take 28 days for her to receive a response.

Miss A says she emailed PayPal on 22 December 2021 and it told her it would investigate. But PayPal denied the claim based on the tracking evidence from the courier. Miss A says PayPal refused to re-open the claim and referred her to the courier company.

Miss A took her complaint to the courier company who told her the item was delivered but it wasn't delivered within their guidelines. So Miss A sent this response to PayPal. Miss A says PayPal told her to go back to S, but S told her they wouldn't do anything whilst PayPal were involved. She says PayPal then sent her to Action Fraud and issued a final response letter on 10 January 2022.

PayPal said on 22 December 2021 Miss A filed an 'item not received' claim. In response to the claim S provided it with a tracking number from the courier company which showed the item was successfully delivered on 1 December 2021. And so her 'item not received' claim was denied and closed.

PayPal said its records show no interest has been applied to her account and the promotional purchase in question was interest free until 1 April 2022. PayPal said correct procedures were used and said it acted in accordance with its terms and conditions.

Miss A wasn't happy with the response from PayPal and so she referred the complaint to this service. Our investigator looked into things and upheld the complaint. He said Miss A provided compelling evidence to support her version of events. PayPal didn't agree with the investigator's view. It said Miss A agreed to its terms and conditions when signing up to PayPal. So the complaint has come to me to decide.

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.

Where information is unclear or incomplete, as is the case here, I reach my conclusions on the balance of probabilities. My decision is based on what I think is more likely to have happened than not.

I've considered whether PayPal acted in line with their user agreement during the dispute and claims process. And I'm satisfied it did act in line with them when it declined the claim. I say this as it had received information from the courier which stated the parcel was 'delivered to porch.' The evidence had met the criteria of PayPal's definition of *proof of delivery*.

So I'm satisfied PayPal were entitled under the user agreement of the account, to decline the claim made by Miss A. But I do need to also consider what is fair and reasonable in the circumstances of a complaint. In doing so there will be times a strict application of any terms and conditions will result in an unfair outcome for a customer.

I think that's what has happened here. It was only evident after PayPal had closed Miss A's dispute that the courier had confirmed the item was not delivered correctly and within their guidelines.

It's likely that if PayPal hadn't closed down the claim on the date it did – which it is entitled to do – when Miss A had the additional evidence from the courier company PayPal would have accepted the delivery didn't meet its definition. I'm persuaded this information would have given PayPal no choice but to uphold Miss A's claim.

I think Miss A acted in line with the terms of the user agreement and acted reasonably in trying to resolve the issue with the missing item – she contacted the seller, PayPal, the courier company, and the police in order to do so.

When PayPal closed the initial dispute in December 2021 I'm satisfied it acted as I would expect since the item was delivered in line with its user agreement. But while it was entitled to strictly enforce the terms and conditions of the account, in this instance it led to an unfair outcome based on Miss A's individual circumstances, as the courier then confirmed they hadn't delivered the item correctly.

So I think what is fair here is for PayPal to refund Miss A the purchase cost of the item. I say this for the reasons above, that when PayPal were made aware it was given incorrect information about the delivery it should have put things right for Miss M.

Interest on the account

I have reviewed Miss A's statements and the information provided by PayPal. No interest or fees have been charged on either the disputed transaction or any other transaction to date.

My final decision

My final decision is I uphold this complaint.

To put things right PayPal Europe Sarl & Cie, SCA must;

1. Refund £205 to Miss A's credit account as that's how she made the payment,
2. Pay simple interest at 8% a year; from the 29 November 2021 (the day after the transaction) until the date it makes this payment.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept

or reject my decision before 27 June 2022.

Kiran Clair
Ombudsman