

The complaint

Mr M complains about NewDay Ltd's ("NewDay's"), trading as Amazon Credit Card, handling of a chargeback claim he made to them.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead I'll focus on giving my reasons for my 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.

I know it will disappoint NewDay, but I agree with the investigator's view of this complaint.

Where the information I've got is incomplete, unclear, or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

When something goes wrong and the payment was made with a credit card, as is the case here, it might be possible for the business to raise a chargeback claim.

The chargeback scheme isn't administered by NewDay, it's administered by Mastercard and they set the rules. NewDay didn't have to submit a chargeback claim but I'd think it good practice for them to do so where the right exists and there is a prospect of success.

It's clear that Mr M didn't book a room at the accommodation I'll call "AM". His accommodation was booked at a property I'll call "EH" – that's in his booking confirmation.

When Mr M submitted evidence to NewDay about his chargeback claim he was unable to provide the booking form for his accommodation because NewDay's system only allowed him to download one document. He did, however, explain in his submission that he had further evidence he wanted to submit.

The chargeback was defended by the merchant who said the relevant accommodation was provided and that Mr M had failed to cancel the booking within the seven days their terms dictated.

Mastercard chargeback rules allowed NewDay to take the claim to pre-arbitration if the evidence from the merchant wasn't persuasive. I don't think the evidence from the merchant was persuasive because there was no confirmation in their submission that Mr M had booked a stay at AM as they'd suggested he had.

In those circumstances I think NewDay were unreasonable not to take the claim to pre-arbitration. If they'd done that Mr M would have been able to submit further evidence. I've not been provided with any Mastercard rules that prevented that, and I think it's therefore likely Mr M would have provided the evidence he's provided this service with and that he also explained to NewDay during a call he had with them on 27 November 2021. That evidence clearly showed that what he booked was not what he was offered in the check in email he received only seven days before the stay was due to commence.

In those circumstances I think NewDay's actions were unreasonable.

When something goes wrong and the payment was made with a credit card, as is the case here, it might also be possible to make a section 75 claim. That section of the Consumer Credit Act (1974) says that in certain circumstances, the borrower under a credit agreement has a like right to claim against the credit provider as against the supplier if there's either a breach of contract or misrepresentation by the supplier. Here Mr M provided information that suggested there had been a misrepresentation by the supplier as the property they had directed him to was not the one he'd booked.

It therefore seems there were also grounds for NewDay to explore a section 75 claim on Mr M's behalf. So, even if I'm wrong about NewDay being unreasonable not to arbitrate Mr M's chargeback claim, I think it would have then been reasonable for them to raise a claim under section 75 for him. In that case Mr M would have had a further opportunity to present all of the relevant documentation.

Putting things right

To remedy the situation, I think it would be fair for NewDay to compensate Mr M by refunding the £318.97 he paid for his accommodation. They'll need to add interest to that refund as Mr M has been deprived of the money since he paid it on 18 August 2021.

I think Mr M has also experienced some distress and inconvenience here. He's had, for instance, to escalate his complaint to this service when I think it could have been dealt with earlier and he had a lengthy call with NewDay to explain his situation. I think if his claim had been properly investigated that wouldn't have been necessary. In the circumstances I'm also asking NewDay to pay Mr M £50 to compensate him for that distress and inconvenience.

My final decision

For the reasons I've given above I uphold this complaint and tell NewDay Ltd to:

- Refund Mr M £319.97 and add 8% simple interest per year from the date of payment (18 August 2021) to the date of settlement.
- Pay Mr M £50 to compensate him for the distress and inconvenience experienced.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 27 December 2022.

Phillip McMahon
Ombudsman