

## **The complaint**

Mr D complains that Bank of Scotland plc declined his claim for a refund when goods and services he paid for with his debit card were not as described.

## **What happened**

Mr D booked holiday accommodation for 14 guests through a provider, which I'll refer to as "H". He paid £628 using his Bank of Scotland debit card; the balance of the total price of over £2,000 was paid by another guest.

Mr D has explained that he and the other members of his party chose the accommodation in part because it had a games room and a hot tub. However, on arrival, they found out that the hot tub wasn't working and that there was no electricity supply to the games room. There was a large fridge freezer in the games room and, without it, the party had insufficient space to keep perishable food, including baby food. It was not possible to carry out repairs during Mr D's stay.

Mr D complained to the owner of the property and to H. The owner agreed a refund of £150, which was credited to Mr D's account after the holiday. H said that it had no responsibility for the quality or description of the accommodation.

Mr D was not happy with the £150 refund. He noted that half of the party had left early because of the problems. He therefore referred the matter to Bank of Scotland. It initially applied a credit of £628 to Mr D's account but, following further investigation, reversed that credit. Mr D complained about that decision, and Bank of Scotland explained that, as the payment had been made to H, not to the property owner, there was no basis on which it could seek a refund.

Mr D referred the case to this service, where one of our investigators considered what had happened. She did not recommend that the complaint be upheld; she agreed with the bank that there were no grounds on which it could seek a refund.

Mr D did not accept the investigator's conclusions and asked that an ombudsman review the case.

## **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 goods or services are paid for with a debit card and a dispute arises, it is often possible to resolve that dispute through the chargeback process. Chargeback is a scheme run by the card schemes (in this case, Visa). A card issuer (here, Bank of Scotland) raises a claim through the scheme against the merchant's provider of card facilities. That provider will then consider whether the claim meets the relevant criteria for chargeback (if necessary, seeking evidence from the merchant) before responding to the claim. Where necessary, the scheme provides for arbitration between the financial businesses.

Chargeback is however primarily a scheme for resolving disputes about payment settlements – including, for example, where payments are not authorised or are duplicated, or where goods have been paid for but not delivered. It can therefore have the effect in some cases of resolving disputes between merchants and consumers, but it is not always an appropriate or effective mechanism for achieving that aim.

There is no legal or regulatory obligation on a card issuer to pursue a chargeback claim, but this service takes the view that they should do so where there is a reasonable prospect of success.

The card payment in this case was made to H. Its terms and conditions included, at clause 20.3:

*“As the contract for the provision of the accommodation is between you and the Owner, you must tell them (or their representative) as soon as possible if you are dissatisfied ...”*

And clause 20.7 said:

*“As we act only as an agent for the Owner, we cannot accept any legal responsibility for your complaint. If we help to resolve a complaint, we are doing so as an agent only and have no legal responsibility to you for any refund or compensation.”*

H's role therefore was to arrange the booking, take the payment and liaise between Mr D and the owner of the accommodation as necessary. It did not itself provide the accommodation and was not responsible for any problems with it. Mr D had a separate contract with the owner for the provision of the accommodation.

The chargeback scheme could not therefore be used to resolve Mr D's dispute with the owner. Mr D had not made any card payment to them. The payment had been made to H, which had passed that payment on – after deducting its own fees. I therefore agree with Bank of Scotland that there were no grounds on which it could raise a chargeback and take the view that its decision not to seek to do so was reasonable. It follows that it was reasonable too not to provide a refund.

### **My final decision**

For these reasons, my final decision is that I do not uphold Mr D's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 25 December 2024.

Mike Ingram

**Ombudsman**