

The complaint

Mr O complains that American Express Services Europe Limited (AESEL) did not properly pursue a chargeback and misled him about making a claim under section 75 Consumer Credit Act 1974 ("S.75).

What happened

Mr O and his wife wished to take an international return flight before Christmas and contacted a travel agent ("the Merchant") on 19 December 2023. It found suitable flights for them and Mr O confirmed his agreement by making payment using his AESEL card. The Merchant said the e-tickets would be delivered within 3 to 24 hours. They didn't arrive as expected and Mr O and his wife tried to find out what was happening. Mr O was concerned they would not get the tickets and told the Merchant he wanted to cancel the transaction and he bought tickets from another supplier. He did this shortly after the 24 period had elapsed and the e-tickets arrived less than an hour later.

He claimed a refund from the Merchant, but it said that under its terms and conditions he was not entitled to one but after talking to the airline it offered him a refund of the taxes amounting to £1,588. Mr O rejected this and contacted AESEL.

It presented a chargeback to the Merchant's bank, but this was rejected. It explained that the terms and conditions meant Mr O was not entitled to a refund. Mr O sent an email but as this did not show it was directly connected with the transaction AESEL didn't consider it added to his case. It accepted that Mr O had been told he could make a S.75 claim when this was not true and it offered him £ 50 the inconvenience caused.

Mr O brought a complaint to this service where it was considered by one of our investigators who didn't recommend it be upheld. Mr O asked that his complaint be referred to an ombudsman. He said the transaction had been cancelled less than 24 hours before the tickets had arrived and so he had met the Merchant's terms and conditions. He had been left in the dark and the whole affair had been stressful as well as costly.

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 have every sympathy with Mr O, but I do not consider I can uphold his complaint. I will explain why.

Firstly, I must make it clear I am dealing with his complaint about the actions of AESEL and not the Merchant. My remit only covers regulated financial bodies and that means I have no say over the actions of the Merchant.

It may help if I explain the chargeback system. Chargeback doesn't mean there is joint liability on the card company. It is a voluntary scheme administered by the card provider, not AESEL. The consumer makes a claim to their bank and it puts a request to the merchant's

bank. But there are no guarantees the consumer's bank will be able to recover the money through chargeback, or that the merchant will accept that the claim is justified.

Mr O contacted AESEL and provided information about the transaction and it took that and submitted the chargeback. That is what I would expect it to do. I cannot say that it did anything wrong in pursuing the claim on behalf of Mr O. However, the merchant pushed back against the claim as it was entitled to do. AESEL had no power to force the Merchant or its bank to refund the money. Mr O provided more information but AESEL didn't consider that this added anything to his case and so the matter came to a close.

I don't believe the additional material would have made any difference to the chargeback and I do not see that were any grounds for seeking to take it further. The agreement states that "Any Cancellation within 24Hrs of the booking would cost you GBP 200 per person. " Although the tickets were not delivered until after 24 hours the terms and conditions refer to 24 hours after the booking and that means Mr O was not entitled to a refund.

I appreciate the tickets ere delivered after 24 hours I don't think this allowed AESEL to pursue the chargeback after the initial rejection. As I have said, the chargeback regime is voluntary and in the circumstances I don't consider that any further action would have produced the result Mr O was seeking.

I note that the Merchant offered him a partial refund which was the airport taxes which I believe the airline was prepared to fund, but that does not mean AESEL was obliged to take any further action. This was a goodwill gesture by the Merchant and one Mr O refused.

On the matter of the claim under S.75 I note AESEL has offered Mr O £50 for raising his hopes that he may have had a claim. The payment was made using a charge card and the advice was incorrect. However, I consider the sum of £50 is far and reasonable.

My final decision

For the reasons set out above my final decision is that I do not uphold the complaint. I simply leave it to Mr O to decide whether he wishes to accept the £50 compensation AESEL has offered.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 4 December 2024.

Ivor Graham
Ombudsman