

The complaint

Ms B complains that American Express Services Europe Limited (AESEL) didn't provide the service it should have in response to her claim about a payment for a roof that wasn't of satisfactory quality. She wants the replacement cost covered along with compensation for the additional damage that was caused.

What happened

Ms B raised a dispute in relation to her payment for a new roof she bought in October 2020. She said that the roof wasn't fitted correctly, the roof design not followed, substandard materials were used, guttering wasn't connected, wrong insulation was used and there was poor plastering with issues with the electrics. She explained that the company that installed the roof had gone into liquidation.

Ms B said she raised the dispute with AESEL and it asked her to provide evidence such as an invoice which she wasn't able to do at the time. She says her complaint was passed between teams before she was told that her claim was out of time for a chargeback. Ms B said that she brought the claim within the chargeback timeframe and AESEL should have raised this using her bank statement as evidence of purchase. AESEL then rejected her claim under section 75 of the Consumer Credit Act 1974. Ms B didn't think that AESEL had acted fairly in response to her dispute and said her claim should have been considered for a chargeback.

AESEL said that it sent Ms B an email dated 31 October 2023 asking for her to provide the required documents in a legible format as the documents previously provided were illegible. On 6 November 2023 it sent an email saying it couldn't proceed without the requested information. AESEL said it also asked for an independent inspection to be provided to show the cause of the issues with the roof as the invoice provided wasn't sufficient to show that the issues with the roof were due to inherent faults/manufacturing defects and/or poor installation. It said that evidence hadn't been provided to show that there had been a breach of contract or misrepresentation and so Ms B's claim was rejected.

Ms B referred her complaint to this service. She explained that when a customer has had a product for more than six months it is expected under section 75 that they will provide evidence to show there were issues at the point of supply. She noted that AESEL had requested an independent inspection report (which she didn't find unreasonable) and this hadn't been provided. She noted the evidence that Ms B had provided but said this wasn't enough to show the condition of the roof at the point of supply. Regarding a chargeback, our investigator noted that Ms B contacted AESEL on 23 March 2023 which was outside of the 120 days that a chargeback needed to be raised.

Our investigator wasn't persuaded that AESEL had done anything wrong in its response to Ms B's claim and therefore she didn't uphold this complaint.

Ms B didn't agree with our investigator's view. She said the roof needed to be removed and replaced.

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 can see how upsetting Ms B has found the issues with her roof and I am sorry to hear that she is experiencing health issues. I appreciate that this will have made dealing with this complaint more stressful. While there are other parties involved in the issues Ms B has experienced, this complaint is against AESEL and this decision is about whether AESEL took the action we would expect, and treated Ms B fairly, in response to her disputed transaction claim.

In October 2020, Ms B paid for a new roof to be fitted. She used her credit card to make the payments. She says that the roof wasn't of satisfactory quality with substandard and incorrect materials being used and wasn't fitted properly with the roof design not being followed. I can understand how disappointing it will have been for Ms B to have paid for a roof which she wasn't satisfied with. But for me to uphold this complaint I would need to be satisfied that AESEL didn't do what was required when Ms B raised her dispute.

When a dispute is raised, there are two possible methods by which AESEL can try to obtain a refund for a customer each of which require certain criteria to be met. These methods are chargeback and raising a claim under section 75 of the Consumer Credit Act.

Chargeback is the process by which settlement disputes are resolved between card issuers and merchants under the card scheme. In this case, Ms B would have needed to have requested a chargeback because the goods /services weren't as described and / or were defective. Under this reason code, Ms B needed to raise the chargeback within 120 days of the disputed transactions being processed. As Ms B's transactions were in October 2020 and she didn't raise her dispute with AESEL until 27 March 2023, these were raised out of time for a chargeback to be raised. Therefore, I do not find I can say that AESEL was wrong not to pursue this.

Ms B made the payment using her credit card and so was able to make a claim under section 75. Section 75 says that in certain circumstances, the borrower under a credit agreement has an equal right to claim against the credit provider if there's either a breach of contract or misrepresentation by the supplier of goods or services. Ms B completed a claim form in October 2023 saying she was raising a claim because of goods and services not being delivered. She was unable to pursue this any further with the supplier as it had gone into liquidation. I can see from the evidence provided that the roof was installed but Ms B has said this wasn't to a satisfactory standard.

In order to assess whether there had been a misrepresentation or breach of contract I find it reasonable that AESEL requested further information to be provided. I can see that Ms B evidenced the payments she had made and provided quotes for other works to take place, but I do not find that this was enough to show that the roof that was installed had been misrepresented or that there had been a breach of contract.

To establish whether there had been a breach of contract, Ms B would need to show the roof supplied wasn't of satisfactory quality. This can include issues such as the roof not being fit for purpose and sufficiently durable. I have looked at the evidence that Ms B provided and note the issues she has raised but without further support to show that the roof wasn't of satisfactory quality at supply, I do not find it unreasonable that AESEL said it hadn't seen enough to say a breach of contract had occurred. I note that AESEL asked Ms B to provide an independent inspection report to identify the issues with the roof and while I understand Ms B didn't want to do this given the cost, I think this could have assisted in the

determination of this claim.

Taking everything into account, based on the evidence provided to AESEL in support of Ms B's claim, I do not find I can say it acted unreasonably or treated Ms B unfairly by saying it didn't have enough evidence to show that a misrepresentation or breach of contract had occurred and therefore rejecting her claim.

While I know this will be disappointing for Ms B, I do not find I can uphold this complaint.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 21 November 2024.

Jane Archer
Ombudsman