

The complaint

Mrs C has complained that Nationwide Building Society hasn't done enough to help her get a refund for a holiday.

What happened

Mrs C used her Nationwide credit card to pay for a ten-day all-inclusive holiday abroad, with a merchant, who I will call 'M'. Two days after returning home, Mrs C made a claim with Nationwide, as there were aspects of the holiday she was unhappy with. But Nationwide didn't provide a refund, so she complained to our service. She was also unhappy about the service she'd received.

One of our investigators looked into what had happened, looking at the mechanisms for getting refunds (section 75 of the Consumer Credit Act 1974 and the chargeback scheme), and the service provided.

Looking first at section 75, where there is either a breach of contract or a misrepresentation by the merchant (here, M), a consumer (Mrs C) may be able to reclaim their money from the finance provider (Nationwide, through the mechanism of a credit card).

Mrs C had explained that her room was damp and mouldy. But our investigator didn't think there was enough evidence of this. Although she had seen a photo of a dehumidifier, she didn't feel this was sufficient. She also noted that Mrs C hadn't raised the matter with the hotel at the time, so it hadn't had the opportunity to put any issues right. She was aware that Mrs C had said the manager didn't speak English, but overall, she felt there would have been an opportunity to speak to someone over the course of the holiday.

Mrs C also explained that the beach was nearly 200 steps away over a main road, and that the pool steps were dangerous. She also said that the bar was small and not properly lit at night. But our investigator didn't think any of these things amounted to a misrepresentation. She hadn't seen evidence of what Mrs C had been led to expect. But she looked at M's website for this specific hotel, and didn't think it said anything that was incorrect. Although Mrs C had provided a photo of a staircase that was different from the website, she didn't think this was enough to be a misrepresentation such that Mrs C had relied upon it when entering into the agreement.

Mrs C also explained that she and her husband had difficulty getting from the airport to the coach. But our investigator hadn't seen any evidence that Mrs C had made M aware of any accessibility needs.

For these reasons, our investigator didn't think Nationwide had been unreasonable in declining the section 75 claim.

She then considered the chargeback scheme. Nationwide had said Mrs C had stayed for the entire holiday, so wasn't entitled to pursue a chargeback. Our investigator didn't agree with this reasoning. However, she didn't think there was a reasonable chance of a chargeback succeeding, as she thought it unlikely that M would agree to it.

Finally, our investigator looked at the service Mrs C had received. She could see that Nationwide had accepted it had taken a longer time than it should have to issue its final decision. It had offered Mrs C £100 compensation in respect of this, which she had accepted, so didn't think Nationwide needed to do anything more.

Mrs C disagreed. She explained that the hotel staff didn't speak English, and had already said there wasn't another room available. They also arrived in the early hours of the morning, so moving would have been very difficult for them. She also said she'd asked for special assistance to be provided, and this had been provided by the airline, but not to get to the coach. She also explained that another hotel guest had received a partial refund.

The complaint's now been passed to me.

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.

Having done so, I'm not upholding it, for the same reasons as given by our investigator. I know this will be very disappointing for Mrs C, but I'll explain why.

As regards section 75, I don't have sufficient evidence of a breach of contract or a misrepresentation. I haven't seen persuasive evidence of mould and damp in the room. I don't think the presence of a dehumidifier in and of itself suggests a problem – humidifiers are often used in rooms, without there being an underlying issue.

I've also looked at the photos and am satisfied the hotel is close to the beach. I accept there are a number of steps, and there are also steps in the restaurant and pool area, but I don't see anything unusual about them. Nor have I seen any evidence that Mrs C hadn't been expecting steps.

As regards the bar area, again, I haven't seen any evidence that anything incorrect was said about it.

I accept that Mrs C may have had problems communicating with reception staff, and arrived understandably exhausted in the early hours. I'm sorry she was in this position. But overall, I think she would have been able to communicate her concerns at some point over the course of the holiday.

Turning to the chargeback scheme, I disagree with Nationwide that Mrs C couldn't have a chargeback pursued because she'd remained on the holiday. I think this is an unreasonable and unrealistic stance. However, had Nationwide pursued a chargeback, I think it would have been very unlikely to succeed. M would almost certainly have rejected it. And given that I haven't seen a breach of contract or misrepresentation, I think this would have been reasonable. So, I don't think Nationwide's stance ultimately changed things for Mrs C.

As regards another hotel guest receiving a partial refund, I am deciding this particular complaint on its own merits. So, I don't consider another person's position to affect this.

Finally, I've looked at the service provided. I agree that the £100 offered by Nationwide is fair, and I note that Mrs C accepted it. Accordingly, I won't interfere with it, and make no further award.

My final decision

For the reasons given above, it's my final decision not to uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 11 February 2025.

Elspeth Wood
Ombudsman