

## **The complaint**

Miss L complains that American Express Services Europe Limited won't refund to her the money that she paid for some clothes.

## **What happened**

Miss L used her American Express cashback credit card to pay £101.74 for some clothes that she bought online in July 2023. The clothes were damaged when Miss L received them so she returned them to the supplier for a refund. She didn't receive a refund so she claimed a refund from American Express.

It made a chargeback claim to the supplier but the supplier defended the chargeback. It said that it didn't receive the returned clothes from Miss L and its terms and conditions state that it can't be held liable for returns which are lost in the post, so American Express didn't refund the £101.74 to Miss L.

Miss L then complained to American Express but it said that it had been unable to substantiate any errors by it so it wasn't able to uphold her complaint. Miss L wasn't satisfied with its response so complained to this service. Her complaint was looked at by one of this service's investigators who, having considered everything, didn't recommend that it should be upheld. He didn't think that American Express should have taken the chargeback claim any further and he said that the price of the individual clothing items didn't meet the monetary limit for a claim under section 75 of the Consumer Credit Act 1974 so he couldn't ask American Express to provide Miss L with a refund.

Miss L didn't agree with the investigator's assessment of her complaint so requested an ombudsman's review. She says she doesn't think that she should be held responsible for the returned clothes failing to turn up and she raised the apparently lost parcel with the courier but it has ignored her correspondence. She says that she followed the specific instructions of the supplier (including that she was to return the clothes as cheaply as possible) and a supplier should issue a refund either when it receives the goods back or when it has proof that they've been returned. She says she's provided proof of the return to American Express and the supplier and evidence to show that the clothes didn't arrive in a satisfactory condition so a chargeback should have been attempted and American Express is liable for her losses.

## **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.

If a consumer disputes a card payment, the card issuer may be able to make a chargeback claim to the supplier under the relevant card scheme to try to settle the dispute. There's no right for a consumer to require that a chargeback claim be made and the applicable scheme rules set out the disputes that can be considered and the time limits for making a claim. But if the right to make a chargeback claim exists under the applicable scheme rules, and if

there's a reasonable prospect of success, I consider it to be good practice for a chargeback claim to be made.

When Miss L didn't receive a refund from the supplier for the clothes that she'd returned to it, she claimed a refund from American Express. It made a chargeback claim to the supplier but the supplier defended the chargeback. It said that it didn't receive the returned clothes from Miss L and its terms and conditions state that it can't be held liable for returns which are lost in the post.

Miss L has provided evidence to show that she sent the clothes back to the supplier and that the amount that she paid to the delivery company included standard and extra parcel protection but she said in her complaint form that the return is still showing as undelivered. I've seen no evidence to show that the return was received by the supplier and, as the return wasn't delivered to it, I don't consider that the supplier was required to provide a refund to Miss L. Miss L says that she raised the undelivered parcel with the courier but it has ignored her correspondence.

I consider that American Express acted correctly by making a chargeback claim to the supplier but, when the supplier defended the chargeback and said that it hadn't received the returned clothes, I don't consider that it was unfair or unreasonable for it to decide not to pursue the chargeback any further.

In certain circumstances, section 75 gives a consumer an equal right to claim against the supplier of goods or services or the provider of credit if there's been a breach of contract or misrepresentation by the supplier. Section 75 doesn't apply if the claim relates to any single item to which the supplier has attached a cash price not exceeding £100 or more than £30,000. Although the clothes had a total price of £101.74, the cash price of each item of clothing was less than £100 so Miss L isn't able to make a claim to American Express under section 75 in these circumstances.

I can understand Miss L's frustration that she hasn't received a refund for the clothes that she returned and that she followed the specific instructions of the supplier for the return, but I'm not persuaded that there's enough evidence to show that American Express has acted incorrectly in these circumstances. I appreciate that this will be disappointing for Miss L, but I find that it wouldn't be fair or reasonable for me to require American Express to refund the £101.74 to Miss L or to take any other action in response to her complaint.

**My final decision**

My decision is that I don't uphold Miss L's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 9 January 2025.

Jarrold Hastings  
**Ombudsman**