

## **The complaint**

Ms B complains that Clydesdale Bank plc, trading as Virgin Money, won't refund to her the money that she paid for some accommodation.

## **What happened**

Ms B used her Virgin Money credit card in February 2023 to pay £545.70 for some accommodation that she and her family were to use later that month. She says that the accommodation was filthy so she complained to the accommodation provider and it refunded a cleaning fee of £115 to her credit card account. Ms B completed Virgin Money's online dispute form in February 2023 but it declined her claim in May 2023 on the basis that the services were utilised. It said that it had reviewed her claim under section 75 of the Consumer Credit Act 1974 but couldn't progress that either due to the services being utilised and there being no evidential proof of a breach of contract by the supplier.

The accommodation provider offered to also refund to Ms B 15% of the remaining balance that she'd paid, and then offered to increase the refund to 20% and it refunded £64.61 to her in May 2023. Ms B complained to Virgin Money but it said that no further information had been received so its decision remained the same and it was unable to agree that it had acted incorrectly. It accepted that there had been some customer service errors and Ms B accepted £50 compensation but she wasn't satisfied with its response to her claim so she complained to this service.

Ms B's complaint was looked at by one of this service's investigators who, having considered everything, didn't recommend that it should be upheld. She felt that Virgin Money was right to reject the claim on the basis that a fair remedy had already been provided by the accommodation provider. Ms B didn't accept the investigator's recommendation and asked for her complaint to be considered by an ombudsman. She says that she doesn't agree with Virgin Money's decision not to attempt a chargeback as she's read the chargeback rules in detail and feels that her case fits the criteria for a chargeback.

## **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.

When it received Ms B's completed online dispute form, I consider that Virgin Money should have considered the dispute under section 75 and the chargeback rules.

### ***Section 75***

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. To be able to uphold Ms B's complaint about Virgin Money's response to her section 75 claim, I must be satisfied that there's been a breach of contract or misrepresentation by the accommodation provider and that Virgin Money's response to her claim wasn't fair or reasonable. I'm not determining the outcome of Ms B's claim under section 75 as only a court would be able to do that.

I've carefully considered the photos that Ms B has provided showing the poor standard of cleanliness in the accommodation and the accommodation provider's cleaning standards. I consider it to be more likely than not that there's been a breach of contract by the accommodation provider because the accommodation wasn't cleaned in accordance with the cleaning standards.

The accommodation provider refunded the cleaning fee of £115 to Ms B and also refunded to her £64.61 (which is 15% of the remaining balance that she'd paid – though it had offered her a refund of 20%). Ms B and her family used the accommodation and I consider the refunds offered by the accommodation provider to be a fair and reasonable response to the breach of contract. Ms B clearly feels that she should receive a full refund of the payment that she made for the accommodation but I'm not persuaded that that would be fair or reasonable in these circumstances.

### *Chargeback*

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. 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.

Ms B has referred to the applicable scheme rules and says that the goods and services didn't conform to their description because the accommodation hadn't been properly cleaned, and she provided photos showing the uncleanliness of the accommodation. Virgin Money said that the services were utilised and the scheme rules stipulate that all refund requests relating to services that have been utilised in full will be invalidated. I consider that it was fair and reasonable for it to conclude that a chargeback claim wouldn't be successful in these circumstances so I don't consider that it acted incorrectly by not making a chargeback claim. Even if it had made a chargeback claim, I consider it to be more likely than not that it wouldn't have been successful because the accommodation was fully used and the compensation that the accommodation provider paid to Ms B was fair and reasonable compensation for the issues that she had with it.

### *Conclusion*

Virgin Money has paid £50 compensation to Ms B for the issues with its customer service and she accepted that payment in resolution of those issues. The accommodation provider refunded the cleaning fee of £115 to Ms B and it has also refunded £64.61. I consider that to have been fair and reasonable compensation for the issues that Ms B had with the cleanliness of the accommodation. I'm not persuaded that it would be fair or reasonable in these circumstances for me to require Virgin Money to refund to Ms B any more of the payment that she made for the accommodation or to take any other action in response to her complaint.

The accommodation provider offered to refund to Ms B 20% of the remaining balance that she'd paid for the accommodation but it refunded to her £64.61, which is 15%. 20% of £430.70 is £86.14, £21.53 more than the accommodation provider paid to her. If Ms B would like to receive the balance of £21.53, I suggest that she contacts the accommodation provider.

**My final decision**

My decision is that I don't uphold Ms B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 27 February 2025.

Jarrold Hastings  
**Ombudsman**