

## **The complaint**

Mrs S complains that Clydesdale Bank plc, trading as Virgin Money, won't pay her the compensation that she's claimed relating to some holiday accommodation.

## **What happened**

Mrs S booked some accommodation through a booking company for a holiday to be taken in July and August 2023. The cost of the accommodation was £2,323.85 and she used her Virgin Money credit card in March 2023 to pay £1,191.80 of that amount to the booking company. She paid the balance of £1,132.05 to the booking company using her Virgin Money credit card in July 2023.

Mrs S complained to the booking company about some issues with the accommodation the day after she and her family arrived and it helped her to find alternative accommodation. It refunded a total of £1,604.22 to Mrs S's Virgin Money credit card (which was 30% of the three nights spent at the accommodation, 100% of the unspent nights and the cleaning fee of £116.72) and provided her with a £400 coupon. Mrs S sent a letter to Virgin Money in August 2023 in which she made a claim under section 75 of the Consumer Credit Act 1974 for a total of £1,994.10 (which was the balance of the cost of the accommodation of £718.96, other costs of £675.14 and compensation of £600). She didn't receive a response to her claim so she complained to this service.

Her complaint was referred by this service to Virgin Money and it wrote to Mrs S. It said that it could see that it had received the documentation from Mrs S in August 2023 but it hadn't raised a section 75 claim. It apologised for the distress and inconvenience that that had caused her and credited her account with £150. It also said that it would respond to her section 75 claim, but it didn't do so.

Mrs S's complaint was then looked at by one of this service's investigators who, having considered everything, thought that Virgin Money hadn't acted fairly. She couldn't say that the booking company had breached its contract with Mrs S or that there had been a misrepresentation because the terms made clear what was being provided and she said that the booking company had no responsibility for anything that goes wrong during a booked stay. She said that Virgin Money's customer service wasn't up to standard and she didn't agree that the resolution offered was appropriate. She recommended that Virgin Money should pay a further £150 compensation for the distress and inconvenience that had been caused to Mrs S. Virgin Money agreed to increase the compensation from £150 to £300 but Mrs S asked for her complaint to be referred to an ombudsman.

## **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.

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 Mrs S's complaint about Virgin

Money, I must be satisfied that there's been a breach of contract or misrepresentation by the booking company and that Virgin Money's response to her claim under section 75 wasn't fair or reasonable (but I'm not determining the outcome of Mrs S's claim under section 75 as only a court would be able to do that).

Mrs S made the two payments totalling £2,323.85 to the booking company. The booking company's terms and conditions say:

*"We offer you the right to use a platform that enables Members to publish, offer, search for, and book Host Services. When Members make or accept a booking, they are entering into a contract directly with each other. [The booking company] is not and does not become a party to or other participant in any contractual relationship between Members. [The booking company] is not acting as an agent for any Member .... While we work hard to ensure our Members have great experiences using [the booking company], we do not and cannot control the conduct or performance of Guests and Hosts and do not guarantee (i) the existence, quality, safety, suitability, or legality of any Listings or Host Services or (ii) the truth or accuracy of any Listing descriptions, reviews, or other Content provided by Members"; and: "When you receive the booking confirmation, a contract for Host Services (a "Reservation") is formed directly between you and the Host".*

When Mrs S complained to it about issues with the accommodation, the booking company helped her to find alternative accommodation, refunded a total of £1,604.22 to her Virgin Money credit card and provided her with a £400 coupon. I consider that the refund was provided to Mrs S in accordance with its refund policy and that she wasn't entitled to a full refund of the amount that she'd paid to the booking company. Mrs S has described issues with the coffee maker, kettle, pool screen and pool cleanliness and about the way that the host dealt with those issues and I appreciate that those issues will have impacted on the enjoyment of her holiday, particularly given the circumstances that she's described. But I'm not persuaded that there's been a breach of contract or misrepresentation by the booking company so I find that it wouldn't be fair or reasonable in these circumstances for me to require Virgin Money to make any payment to Mrs S for the compensation that she's claimed.

Virgin Money accepts that it received the documentation from Mrs S in August 2023 but didn't raise a section 75 claim. It apologised for the distress and inconvenience that that had caused her and credited her account with £150 and it has accepted the investigator's recommendation that it should pay a further £150 to Mrs S. I consider it to be clear that the customer service that Mrs S received from Virgin Money was below the standard that she would reasonably expect to receive. It has apologised and paid £150 compensation to Mrs S and I agree with the investigator that it should pay her another £150 compensation.

### **Putting things right**

I find that it would be fair and reasonable for Virgin Money to pay Mrs S a further £150 to compensate her for the distress and inconvenience that she was caused by its poor customer service. I'm not persuaded that it would be fair or reasonable in these circumstances for me to require it to take any other action in response to Mrs S's complaint.

### **My final decision**

My decision is that I uphold Mrs S's complaint in part and I order Clydesdale Bank plc, trading as Virgin Money, to pay a further £150 to Mrs S.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or

reject my decision before 16 December 2024.

Jarrold Hastings  
**Ombudsman**