

The complaint

Mr J complains about MBNA Limited's decision not to provide him with a refund for a disputed transaction under a chargeback or Section 75 (S75) of the Consumer Credit Act 1974 (CCA) claim.

What happened

Mr J purchased flights on 6 May 2024 through a merchant (who I'll refer to as 'E' throughout this decision) using his MBNA Mastercard credit card.

E contacted Mr J after the booking to explain the price of the flights had changed and a further £598 was required to secure them, although it agreed to reduce this to £498.

Mr J made this additional payment to E using his MBNA credit card. He says he later received details setting out what the additional payment related to, and unhappy with this he contacted E to dispute it. As Mr J couldn't resolve his dispute with E to his satisfaction, he contacted MBNA to raise a claim as he'd used his MBNA credit card to pay for the service.

MBNA raised a chargeback claim on Mr J's behalf. E defended the claim via its bank; MBNA set out to Mr J the evidence it would need to reasonably counter the defence, through arbitration with the card scheme operator. Mr J wasn't able to provide MBNA with the information and evidence it requested, so it didn't pursue the chargeback further.

MBNA considered whether Mr J's dispute met the requirements of a S75 claim, but it concluded there was no breach of contract or misrepresentation, so it didn't consider it was liable for a claim under S75.

Mr J complained to MBNA and it issued a final response letter in September 2024 not upholding his complaint. It said it had acted reasonably when deciding not to dispute E's defence to the chargeback claim, as it considered there was little chance of success of it succeeding at arbitration, based on the available evidence. It also set out why it didn't consider it was liable for a like claim under S75 of the CCA.

Mr J didn't agree with MBNA's response and referred his complaint to our service for review.

One of our investigators reviewed Mr J's complaint and didn't uphold it. He didn't consider MBNA had acted unreasonably by not pursuing Mr J's chargeback claim to arbitration through the card scheme; or by concluding it wasn't liable under S75.

MBNA didn't respond to our investigator's view; Mr J replied and didn't agree, sending a lot of information across multiple responses. In summary, Mr J's responses maintain his arguments that he considers MBNA should have pushed E and asked it further questions to understand the reason for the additional charge; and that MBNA should refund him the additional charge he paid to E.

Mr J asked for an ombudsman's review, so the complaint has been passed to me to decide.

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.

The information in this case is well known to Mr J and MBNA, so I don't intend to repeat it in detail within my decision. I acknowledge Mr J has presented a lot of information and evidence in support of his complaint. And that he's said he wants questions answered about MBNA's investigation of his dispute.

I'd like to assure both Mr J and MBNA that I've carefully considered all of the evidence on file. While I haven't touched on or answered all of the points Mr J has raised, I've focused my decision on what I consider to be the key points of this complaint, and whether MBNA has acted reasonably based on the rules it must follow and the obligations on it. I don't mean to be discourteous to Mr J or MBNA by taking this approach, but this simply reflects the informal nature of our service.

I've set out below my findings on MBNA's actions when it considered Mr J's dispute, under separate headings for ease.

The chargeback claim made on Mr J's behalf

MBNA initially considered whether the transaction could be disputed via a chargeback claim.

It requested information from Mr J and once received it submitted a chargeback claim on Mr J's behalf, under the reason code "Goods or Services were either not as described or defective".

E's bank defended the claim based on the evidence it provided. This included documentary evidence to confirm Mr J had agreed to the additional payment, by way of an email trail, and that Mr J had used the flights that this additional payment had related to, so it stated the service was delivered.

I note that Mr J has confirmed after phone contact from E where the additional payment was discussed, it sent him an email setting out the additional cost required for the booking. Mr J has provided our service with the same email trail as E provided through the chargeback process in defence of the claim.

The email which I've seen provided a screen shot of the details of the flights and said:

"If the Details are okay please acknowledge to this email by saying "ALL OK"

Please be informed amount to be the paid for confirming the booking is £498

To complete the process of Fare Difference , Kindly make the payment of 498 GBP using the below link."

I'm therefore persuaded the changes were set out to Mr J, including that an additional payment was required for the flights. Mr J responded to this email five minutes later with "All OK". Mr J has also confirmed that he took the flights; so, he has received the service.

MBNA decided without further convincing evidence a defence to the chargeback claim was unlikely to succeed, and I consider this wasn't unreasonable, given the details provided by E through the chargeback process. It therefore follows I don't consider MBNA acted unreasonably by declining to progress the chargeback claim to arbitration.

Mr J has raised concerns with the timing that the additional payment appears to have been processed; stating it was before the phone call and email provided by E in which details of the additional payment were set out. It appears Mr J only become aware of this when having sight of E's defence to the chargeback claim. As such Mr J appears to dispute he authorised the additional payment.

I've carefully thought about this point. I note the transaction date on the chargeback claim form states: *"06 May 2024 13:28:13 UTC"*.

UTC is the abbreviation for 'Coordinated Universal Time'. When the UK changes to British Summer Time (BST) in March each year we use UTC+01:00. This transaction was processed in May 2024, when the UK was under BST. So, it appears the payment was processed at 14:28:13 by E, but as the chargeback process uses UTC it is recorded as 13:28:13. So, on review of the evidence it doesn't suggest the additional payment was taken before Mr J was made aware of the additional cost.

In any event, Mr J was made aware of the additional payment via a phone call and email, and he understood it needed to be paid in order to secure the flights. He also emailed a response to confirm he accepted the additional cost. While I acknowledge Mr J then later had concerns with what part of the flights the additional payment actually related to, it appears he authorised the additional payment at the time it was required.

I acknowledge Mr J's position that he feels MBNA should have done more to understand the details behind the chargeback claim. Although our investigator already set this out, I think it would be helpful for me to confirm that chargeback is a voluntary evidence based scheme controlled by the card scheme operator, in this case Mastercard.

The scheme's purpose is to look to resolve some disputes between cardholders and merchants. Therefore MBNA, as the card issuer in this process, is bound by Mastercard's rules. While MBNA will gather information and evidence to satisfy the dispute conditions of a chargeback reason code, this information and evidence is then submitted through the card scheme. MBNA has no remit to question the merchant or request information or evidence; its role in this process is purely to gather information and evidence which it reasonably considers presents its customer's claim in sufficient detail, and present this through the chargeback scheme.

If a claim is defended by a merchant MBNA must decide whether to refer the case to arbitration, based on its reasonable consideration of the chance of success, given the available evidence. And where a claim is referred for arbitration, the details would be reviewed and a decision would be made by the card scheme operator, so Mastercard in this instance, not MBNA.

I therefore don't consider MBNA needed to have investigated Mr J's dispute to the level he expected, based on the obligations and limitations on it under the chargeback process.

A S75 claim

MBNA went on to review whether Mr J had a like claim under S75, given the details of the transaction met the S75 criteria. However, it concluded that there was no breach of contract or misrepresentation, so it declined liability under S75.

Having considered the details of the dispute, I don't think MBNA acted unreasonably by declining liability of the S75 claim. I say this because based on the evidence Mr J had provided MBNA (and which he has provided this service), I agree there's no evidence that a

breach of contract or misrepresentation has occurred, and these are the criteria that must be met if MBNA is to be held jointly liable for the dispute under S75.

MBNA had received E's defence to the chargeback claim it had raised on Mr J's behalf. So, it had a reasonable amount of information to understand both side's position. It concluded that without any further compelling evidence from Mr J there was no evidence of a breach of contract or misrepresentation.

I've looked at the initial booking confirmation Mr J received. It states at the top: "*Booking Status: Pending from Airlines*". The booking confirmation also states that it can take a maximum of 24 hours to receive confirmation from an airline.

I've reviewed the terms and conditions on E's website relating to fare changes. These state:

"In some cases, even after you have received the ticket confirmation email, the price of a service element included in your booking may change.

If you wish to proceed with the booking, we reserve the right to recover any increase in the price of the service element from you. We will inform you of any fare changes, but [E] does not take responsibility – financial or otherwise – for such changes. Upon receiving notification of the revised fare, you may choose either to cancel your booking or proceed with it at the updated costs."

So, the terms and condition provide for a change in cost of a service after a ticket confirmation email from E is received, and before the service (in this case the flights) are booked by the airline.

Given Mr J's booking with E was pending confirmation from the airline, I can't hold E responsible for any change to the cost of the flights that came about from the airline before they were confirmed. Ultimately E made Mr J aware of this change in price and he accepted the additional cost by providing confirmation by email.

I note Mr J has said E offered him a refund if his complaint was withdrawn, but he declined this offer and proceeded to take the flights.

I've also considered whether there has been a misrepresentation as Mr J says he was misled with information that led him to make this additional payment. However, I've not seen any evidence that Mr J was provided with false information which induced him to enter into this agreement for the additional amount. I acknowledge Mr J seems unhappy that he hasn't received what he considers to be an adequate explanation as to the reasons for the additional cost; but as I've said above, I haven't seen anything which ought reasonably to have led MBNA to have concluded Mr J was induced into the agreement through misrepresentation by E.

I therefore consider MBNA reasonably concluded without further persuasive evidence that it couldn't substantiate a breach of contract or misrepresentation. So, it follows I don't consider MBNA acted unreasonably when declining liability of a S75 claim.

I appreciate Mr J has set out to our service the reasons why he went ahead with the flights, based on the individual details relating to his circumstances surrounding this booking. But even if there had been a breach of contract or misrepresentation, Mr J could have mitigated his loss by obtaining a refund from E, and could have looked to book flights with another company.

I accept my decision will likely be disappointing for Mr J. I'd like to acknowledge his strength on feeling on this matter and the amount of information he's provided in support of his complaint. However, my role here is to decide if MBNA has acted unfairly or unreasonably in dealing with Mr J's dispute, given the rules and obligations on it. And, taking all of the above into account, I haven't found anything to suggest MBNA has acted unreasonably when dealing with Mr J's dispute.

It therefore follows I'm not directing MBNA to take any further action in resolution of Mr J's complaint.

My final decision

My final decision is that I don't uphold Mr J's complaint about MBNA Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 17 July 2025.

Richard Turner
Ombudsman