

The complaint

Miss R complains that American Express Services Europe Limited (“Amex”) has not met her claim for a refund of a credit card payment. She says that the work which was carried out was not of a satisfactory quality.

What happened

Miss R runs a property maintenance business which provides maintenance services for social housing. This complaint arises from work which Miss R had sub-contracted to a supplier (which I’ll call “E”) for the installation of ventilation systems at seven properties.

In November 2023 a payment of £13,000 was made to E from Miss R’s credit card account with Amex. She disputed the payment on two grounds: first, she says that she did not authorise it; second, she says that the work which E carried out was not of a satisfactory standard.

Amex noted that the payment had been approved using its Safekey process and so concluded that it had been properly authorised.

Amex also considered whether it should provide a refund under its chargeback process. It progressed the claim, but E defended it. In doing so, it provided evidence that it had completed the installations which had been funded by the card payment. Amex did not therefore accept Miss R’s claim and reversed the temporary credit it had applied to the account.

Miss R referred the matter to this service, where one of our investigators considered what had happened. She did not recommend that the complaint be upheld. She noted that Miss R had confirmed to E that she had made the payment. She also commented that, whilst there was some evidence that some of E’s work was not satisfactory, it did not appear to relate to the properties for which the card payment had been made.

Miss R did not accept the investigator’s view and asked that an ombudsman review the case.

I did that and issued a provisional decision, in which I said:

Payment authorisation

Amex has provided evidence that the payment was authorised using its Securekey system, which only Miss R would have been able to use. In addition, there was an exchange of emails between Miss R and E shortly before payment was made. In that exchange Miss R asked for seven invoices (one for each property) to be included as a single invoice so she could make one payment.

On balance, therefore, I think it more likely than not that Miss R approved the payment. But, even if I were to take a different view on that point, she accepted that money was owed to E, so it does not appear that she has suffered any loss as a result of the payment being made.

Chargeback

Chargeback is a system under which certain card payment disputes can be resolved, usually through the major card schemes – Visa and Mastercard. Because Amex operates as both card issuer and merchant acquirer, it operates its own scheme which covers both the card holder and the merchant.

There is no obligation on a card issuer to raise a chargeback request, but we take the view that they should do so where there is a reasonable prospect of success.

In this case, Amex did raise a chargeback request on the grounds that goods or services were not supplied. In response, E provided persuasive evidence that the necessary work had been completed. Amex decided therefore not to provide a permanent refund.

I think it's arguable that Amex should have considered the claim under a different reason; Miss R's concern was not that the work had not been done, but that it had not been carried out to the correct standard.

However, I do not believe that this would have made any real difference to the outcome. Amex could only consider the work carried out in respect of the invoice covered by the card payment. Miss R says that E had carried out work on a total of 55 properties and that the evidence of sub-standard work as a whole should have been considered. I am afraid that I don't agree that this is the correct approach when considering a claim against the card issuer. There must be a link between the goods or services provided and the payment.

I do not believe therefore that I can fairly conclude that Amex should have provided a refund under its chargeback process.

Section 75 of the Consumer Credit Act 1974 ("section 75")

One effect of section 75 is that, subject to certain conditions, an individual who uses a credit card to pay for goods or services and who has a claim for breach of contract or misrepresentation against the supplier of those goods or services has a like claim against the credit card provider.

It is not clear in this case whether Amex considered whether Miss R might have a valid claim under section 75. It was not addressed in correspondence with Miss R. I think it would have been helpful if Amex had commented on it.

Our investigator said that section 75 did not apply to payments made for business purposes. That is not quite correct. It applies to payments made by an "individual" – the definition of which includes a partnership of two or three individuals and does not exclude a sole trader.

However, section 75 only applies where the debtor is the person who has the contractual claim against the supplier. The debtor here was Miss R, because she had the credit card agreement with Amex. It is not clear however whether she entered into the contracts with E in her own capacity. E's invoices are addressed to a business. I am aware that Miss R operates in some cases through a limited company. If E's contract was with the company, section 75 will not apply, because the company did not make the payment (and in any event, section 75 does not cover companies).

If, however, Miss R did contract with E as a sole trader, section 75 could apply, so I have considered what the likely outcome would be. Having done so, I think it unlikely such a claim would succeed. As I have indicated in connection with chargeback, there isn't any evidence that the work in respect of the seven properties covered by the card payment was

unsatisfactory. And the card payment was made in respect of those properties alone, regardless of any work carried out on other properties. I note as well that work was originally invoiced separately for each property, indicating that work done on each property was covered by a separate contract.

Miss R did not accept my provisional decision. She said, in summary:

- The request to E for a consolidated invoice was made for accounting purposes only. It was not an instruction to take payment, and certainly not an instruction to take payment from the Amex card which was used.
- Miss R had two Amex cards registered with E, and the wrong one was used. The payment was therefore taken without authorisation.
- She had submitted evidence that E's installations posed a fire risk. That evidence was not acknowledged or considered, contrary to Amex's obligation to investigate defective or unsafe services and to evaluate their nature and quality.
- Amex accepted E's evidence without giving her the opportunity to comment on it.
- The decision implied that chargeback is not available to business customers, which is incorrect.

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.

I am grateful for Miss R's clarification that the reason she says that the payment was not authorised is because it was taken from the wrong Amex card. That payment would have been initiated by E, not by Amex.

However, even if I accept that the payment should have been taken from a different card account from the one used (and that Amex should have reversed it), it remains the case that Miss R accepted that the payment was due and agreed to make it. And I remain of the view that Miss R has not therefore suffered any financial loss as a result of the payment being made. It follows that it would not be fair to require Amex to reimburse the payment on the basis of non-authorisation. And there is, in my view, no reason to think that Miss R's claims based on the quality of E's work would have been more likely to succeed if a different card had been used.

I note that Miss R says that the decision implied that chargeback is not available to business customers. I don't believe it did imply that, and that was certainly not my intention. For the avoidance of any doubt, chargeback is available to business users, and I have approached this complaint on that basis. I did of course comment on the applicability of section 75 to business customers.

I also agree with Miss R that Amex should have considered her claims that the work carried out by E was not of a satisfactory standard – which, given the nature of the work in this case, would include issues such as safety. It was not however incumbent on Amex to carry out a detailed evaluation of those services, as Miss R appears to suggest. But it did need to consider the evidence she had provided in support of her claim, as well as the evidence E had supplied in response. I am satisfied it did that.

However, the evidence which Miss R did provide did not in my view show that the work carried out in respect of the properties covered by the payment was unsatisfactory. Any concerns about the quality of the work (including matters of safety) appear to relate to

different properties. There was therefore no direct link between the payment which is the subject of this complaint and Miss R's wider concerns about E's work.

My final decision

For these reasons, as well as those set out in more detail in my provisional decision, my final decision is that I do not uphold Miss R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 16 June 2025.

Mike Ingram
Ombudsman