DRN-5549200

The complaint

Mr W complains that National Westminster Bank Plc did not uphold his claims arising from payments made to a timeshare relinquishment service. He says he did not receive the services he paid for.

Mr W has been represented in bringing this complaint by a claims management business, so when I refer to his arguments and submissions, I include those made on his behalf.

What happened

In March 2021 Mr W made a credit card payment of £500 to European Consumer Claims Ltd, a UK company. He made a further payment of £4,000 by debit card in February 2022.

Mr W has explained that the payments were for services in connection with the relinquishment of a timeshare.

Mr W entered into a contract for those services with European Consumer Claims LLC, a company based in the USA. He says that the services were not provided and that he still owns the timeshare.

In May 2024 Mr W contacted NatWest. He said that, because he paid for the timeshare relinquishment services using cards issued by the bank and those services had not been provided, he was entitled to a refund of the money he had paid.

The bank did not accept Mr W's claim. It said that he had not provided sufficient proof that the services had not been provided as agreed.

Mr W referred the matter to this service, where one of our investigators considered what had happened. She considered whether Mr W had a valid claim under the chargeback scheme, or under section 75 of the Consumer Credit Act 1974 ("section 75"), or both.

The investigator did not recommend that the complaint be upheld. She concluded, in summary, that any claim under the chargeback scheme would be out of time. In respect of the section 75 claim, she said that the necessary relationships involving the bank, the relinquishment service and Mr W were not present.

Mr W did not accept the investigator's view and asked that an ombudsman review the case.

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.

Where goods or services are paid for with a debit or credit card and a dispute arises, it is sometimes possible to resolve that dispute through the chargeback process. Chargeback is a scheme run by the card schemes (in this case, Mastercard), primarily for resolving disputes about payment settlements – including where goods or services have been paid for but not delivered.

The scheme is however subject to strict time limits. They vary depending on the nature of the claim, and are extended where goods or services are to be provided after the date of payment. But there is a maximum time limit of 540 days from payment. Mr W's claim was not raised until three years after the first payment and two years after the second – both well outside the 540 day limit. In the circumstances, I think the bank's decision not to pursue a chargeback claim was reasonable.

Section 75

Section 75 says:

(1) If the debtor under a debtor-creditor-supplier agreement falling within section 12(b) or (c) has, in relation to a transaction financed by the agreement, any claim against the supplier in respect of a misrepresentation or breach of contract, he shall have a like claim against the creditor, who, with the supplier, shall accordingly be jointly and severally liable to the debtor.

…

Section 12(b) is referenced in section 75(1) and says:

12 Debtor-creditor supplier agreements.

A debtor-creditor-supplier agreement is a regulated consumer credit agreement being —

…

(b) a restricted-use credit agreement which falls within section 11(1)(b) and is made by the creditor under pre-existing arrangements, or in contemplation of future arrangements, between himself and the supplier, or …

And section 11(1)(b), referred to in section 12(b), says:

11 Restricted-use credit and unrestricted-use credit.

(1) A restricted-use credit agreement is a regulated consumer credit agreement —

…

(b) to finance a transaction between the debtor and a person (the "supplier ") other than the creditor, …

and "restricted-use credit " shall be construed accordingly.

One effect of section 75 is that, where a payment is made by credit card and the cardholder has a claim against the supplier of goods or services, he can bring the same claim against the card issuer – subject to certain conditions.

Those conditions include that the underlying contract is financed by arrangements between the supplier and the card issuer.

Mr W's contract in this case was with the US company, European Consumer Claims LLC. But payment was made to the UK company, European Consumer Claims Ltd. It cannot therefore be said that the contract was financed by arrangements between the US company and NatWest; they were financed by arrangements between the UK company and NatWest. Mr W has not suggested he has a claim against the UK company. It follows that section 75 doesn't apply.

Mr W says that the two companies are clearly linked, and section 75 should apply. I have no doubt they are commercially linked. Indeed, I have found publicly available material saying that the UK company was set up to provide administration and marketing services to the US entity. That, however, does not mean that section 75 applies to the credit card payment

here. That would require the two companies to be “Associates” within the meaning of section 184. The investigator was unable to establish such a relationship, and I have not been able to either. Mr W has provided no evidence to show that the two companies are associates.

Mr W says that this distinction is unnecessarily technical and notes too that an ombudsman is not bound by the law – although they must have regard to it.

However, it is in the nature of section 75 liability that there are technical aspects to its application. And the question of its application where payment is made to an agent of the contracting party was recently considered in the case of *Steiner v National Westminster Bank Plc* [2022] EWHC 2519; I do not believe there is any good reason for me to disregard the findings in that case.

In the circumstances, I do not need to consider whether there was in fact a breach of contract in this case, and I make no comment on that point. I am satisfied however that the bank’s decision to decline Mr W’s claims was reasonable.

My final decision

For these reasons, my final decision is that I do not uphold Mr W’s complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr W to accept or reject my decision before 17 June 2025.
Mike Ingram
Ombudsman