

The complaint

Mr B, who is represented by a professional representative ("PR") complains that HSBC UK Bank Plc ("HSBC") rejected his claim under section 75 Consumer Credit Act 1974 ("s.75").

What happened

In August 2020 Mr B and his wife entered into an agreement with a company offering timeshare relinquishment services ("the merchant"). This cost £6,840 of which £1,368 was paid by Mr B using his HSBC credit card. This means Mr B is the eligible complainant and for reasons of simplicity I will refer to him hereafter as the sole purchaser.

In June 2023 PR contacted HSBC to make a s.75 claim. It said the merchant had ceased to trade and was no longer contactable. It said the merchant had acted as an agent for another business which would arrange for the termination, but it had not been paid by the merchant so no work was carried out. HSBC wrote to PR asking for a copy of the full agreement to show which timeshare was the subject of the termination and confirmation that the timeshare was still active. It says it received no response and so it could not continue its consideration of the claim.

PR brought a complaint to this service where it was considered by one of our investigators who didn't recommend it be upheld. She noted HSBC had offered to consider the claim further once the outstanding information was received. She also identified that the contract with the merchant stated it had 12 months in which to fulfil the contract, but it was not clear if this had been achieved or not.

PR said it had sent a full copy of the contract and it informed this service of the name of the timeshare provider which I will call C. It said: "Our client has not received any correspondence or any chases from their timeshare provider in 10 years. Therefore, [C] do not deem them members and our client has not paid any fees to them." It subsequently said that the merchant had used scaremongering tactics to persuade Mr B to pay for its services even though he had not heard from C in 10 years.

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.

Having done so I am not persuaded that this complaint should be upheld. I will explain why.

I take account of law and regulations, regulators' rules, guidance and standards, and codes of practice and good industry practice, when I make my decision as to what is fair and reasonable.

While I might not comment on everything (only what I consider key) this is not meant as a discourtesy to either party – it reflects my role resolving disputes informally.

When someone makes a payment on their credit card, in order to make a valid s. 75 claim

against their credit card issuer they need to have used the credit card to pay a company they have a claim against for breach of contract or misrepresentation. S. 75 gives the debtor (the credit card account holder) the same claim against their credit card issuer as they would have against the supplier of goods or services, so long as that claim is for breach of contract or misrepresentation.

This is because section 75 itself is worded in the following way:

“If the debtor under a debtor-creditor-supplier agreement falling within s. 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.”

The debtor in this case is Mr B, because he paid some of the cost of the service using his credit card account. The transaction financed by the credit card account was the provision of the timeshare relinquishment service and the supplier was the merchant. S. 75 says that it is the debtor who needs to have a claim against the supplier in respect of a misrepresentation or breach of contract.

PR in its letter of claim set out the grounds as to why it considered there had been a breach of contract. It said that the merchant was no longer contactable and so there had been a breach of contract. It also said the sub-contractor for the merchant had not been paid so no work had been done.

The brief agreement with the merchant states that the termination of the timeshare agreement will take no longer than 12 months. It does not identify the third party contractor to which it will pass the case. That means it is difficult to say if the money was passed on. PR says it knows which third party was engaged to undertake the work, but has provided no evidence in support of that.

The merchant had until August 2021 to effect the relinquishment and the fact it was uncontactable at some unspecified date does not demonstrate that it did not provide the agreed service.

Nor has Mr B or PR demonstrated that the merchant did not carry out the work as required. To do so it would need to show that his membership of C was still extant. However, as PR has said Mr B has not heard from C for some 10 years and presumably not made any payment. If that is the case then it seems unlikely there was any membership to terminate. I also am aware that the timeshare company PR has referenced in correspondence with this service is still active.

PR did not claim that the merchant had been guilty of misrepresentation in its original claim, but it has alluded to this in more recent exchanges. It has suggested that the merchant persuaded Mr B to pay for its services because C would at some point seek payment of arrears. This was not mentioned in the original claim and has not been supported by any evidence or by testimony from Mr B. That makes it difficult for me to reach a conclusion that there was any misrepresentation.

All we have been given is a belated assertion and without any evidence in support I do not consider it reasonable to expect HSBC to pay out a significant sum.

My final decision

My final decision is that I do not uphold this complaint. text here

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 19 June 2025.

Ivor Graham
Ombudsman