

## **The complaint**

Mr N complains American Express Services Europe Limited (“Amex”), has acted unfairly by not refunding a payment he made using his credit card.

## **What happened**

In November 2024, Mr N purchased shower panels and trim from a company I’ll refer to as E. He paid £186 using his Amex credit card.

Mr N says he decided to return the items and followed E’s returns procedure. However, when E received the return, it said Mr N had returned a different item, provided by another retailer. As such, E refused to refund Mr N. As Mr N didn’t agree, he contacted Amex for help in getting his money back.

Amex raised a chargeback with E, which is a process of asking the merchant for a refund via the card scheme provider. E defended the chargeback, saying it didn’t agree a refund was due as Mr N hadn’t returned the products it had supplied.

Mr N provided further evidence, which Amex reviewed, but decided there wasn’t sufficient evidence to pursue the chargeback further. Amex didn’t change its position after Mr N complained, so he referred the matter to this Service.

An Investigator here reviewed matters, but didn’t think Amex had acted unfairly. They said Amex had correctly followed the chargeback process, but because E had provided evidence a different product had been returned, it was reasonable for it not to pursue the matter further. They also explained that as the individual items were under the financial limits for section 75, the criteria to raise a claim under this also hadn’t been met.

Mr N didn’t agree, saying there was no proof the evidence E provided related to his order.

With no resolution 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.

I think it would be helpful to explain, in this decision I’m only able to consider how Amex handled the dispute Mr N raised with it. I’m not able to consider the actions of E, as that isn’t within the jurisdiction of this Service for these types of complaints.

When a consumer approaches their credit card issuer with a problem with a purchase made using their card, there are two avenues via which it can help. The card issuer can try to reclaim the amount (or part of the amount) the consumer paid on their card, via the dispute resolution mechanism operated by the card scheme (Amex in this case), and which is often known as “chargeback”. Where the payment has been made using a credit card, it can also

consider honouring a claim under section 75 of the Consumer Credit Act 1974 (CCA). I will consider each of these mechanisms in turn below.

### *Chargeback*

Chargebacks are not guaranteed to succeed, the recipient of the funds (E in this case) can choose to challenge or defend a chargeback if it doesn't think it is valid. But I would expect Amex to attempt a chargeback if there was a reasonable prospect of success. If a chargeback is challenged by the other side to the dispute, I would expect Amex to look carefully at the submissions made by the other side and make a decision on whether to continue pursuing the chargeback. I would not expect Amex to pursue it further if the submissions showed it no longer had a reasonable prospect of success.

In this case Amex did as I'd expect and pursued the chargeback under reason code "*Credit not presented*". This seems reasonable as Mr N says he returned the items, but hasn't received a refund – which is one of the reasons this code can be used for.

On this point, I note our Investigator referred to the reason code as "*Credit Not Processed*", but that's not quite right. Amex's rules don't include this reason code – it refers to it as "*credit not presented*". But I don't think that changes the outcome here, as I think the reasoning our Investigator has given still applies, so it's appropriate I continue to a final decision.

One of the ways a merchant can challenge a dispute made under this rule is to show one of the following (I've included those relevant to Mr N's claim):

- *Proof that refutes the Card Member's claim that the goods were returned.*
- *Proof that the Merchant provided its cancellation/return policy to the Card Member at the time of the purchase, and the Card Member did not comply with the policy*

Here E provided photos to Amex of the items it received in its warehouse, these showed the packaging was from another third-party supplier. It also provided an image of its own packaging, noting its differences to those that Mr N returned to it.

Based on the defence, Amex made the decision not to pursue the chargeback, sharing the outcome with Mr N. As Mr N didn't agree, Amex considered the further evidence he provided. This included photos from the courier company, taken when it collected the items from Mr N.

On review, Amex explained to Mr N the evidence wasn't sufficient to pursue the chargeback further, which seems reasonable. I say that because the photos Mr N provided don't show any supplier details.

While Mr N says there is nothing to connect the photos E provided to him, that isn't a reason under the rules for a chargeback to be successful. So I don't think it was unreasonable for Amex not to continue pursuing the chargeback, as there was no reasonable prospect of success.

I've also seen E's return policy is clearly set out on its website and requires the consumer to return the product it purchased, before any refund can be issued. So I consider Mr N had these at the time he made the purchase and based on the evidence E supplied, he's not able to conclusively show he complied with those.

In this case, Amex did as I'd expect and pursued the chargeback claim as far as it considered it could. It did so under the relevant reason code, but because E defended it and provided evidence to show the items returned weren't provided by it, it wasn't required to

provide a refund. While Amex had the option to pursue the chargeback further after E defended it, I also think it's reasonable it chose not to do so.

As such, I can't agree Amex handled Mr N's chargeback claim unfairly.

For completeness, I'm aware our Investigator has mentioned other reason codes under which the chargeback could have been processed, specifically, *Goods and Services Not Received*. But Mr N hasn't disputed that here – while he says he didn't open the box – he's still said he received an item, which he subsequently returned. So for the same reasons as our Investigator, I don't consider a chargeback processed under this reason code would have had a reasonable prospect of success either.

### *Section 75*

Section 75 of the CCA allows consumers who have purchased goods or services using a credit card, to claim against their credit card issuer in respect of any breach of contract or misrepresentation by the supplier of those goods or services, so long as certain conditions are met.

From the submissions available, there's no evidence Amex considered a section 75 claim here. While it's not clear why it chose not to do that, in the circumstances I think it should have done so, as it was a potentially avenue for Mr N to receive a refund. As such, I've considered, had it done so, what a fair outcome would have been.

Here Mr N purchased 8 items, the total cost of which was £186. However, one condition which needs to be met for section 75 to apply to a purchase is the claim must relate to an item with a cash price of over £100 and no more than £30,000. On this point, section 75 says:

*“75 Liability of creditor for breaches by supplier*

*(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.*

...

*(3) Subsection (1) does not apply to a claim—*

...

*(b) so far as the claim relates to any single item to which the supplier has attached a cash price not exceeding £100 or more than £30,000”*

As such, I've considered what the “single items” are, which make up the purchase Mr N made, and whether these exceeded the cash price of £100, necessary for section 75 to apply. Where multiple items, which are individually priced are brought together, it's not always straightforward to determine this.

Here, Mr N purchased shower panels, along with trims needed to install them, so I've considered whether the purchase should be considered as one “single item”. But I don't think it can be, I'll explain why.

Mr N ordered three separate shower panels, at a cost of £48 per panel. These are advertised on E's website individually and sold in this way. The number purchased depends on the size of the area the customer needs to install them. But for that reason, in my view, each panel would be considered a “single item” and as such, the condition for section 75 to apply hasn't been met, as individually they did not exceed £100.

For completeness, the other items Mr N purchased, which all cost less than the shower panels, would also be considered single items, so didn't exceed £100 either.

As such, I don't think Mr N would have been able to make a valid claim against Amex under section 75, so I don't think he's lost out as a result of Amex not considering this.

For a successful section 75 claim there is also a requirement to evidence there has been a misrepresentation or breach of contract by E. But even if that had been evidenced, because I am not persuaded the technical requirements for a valid section 75 claim were met, I don't think Amex would have been acting unfairly in declining the claim here (had it considered it). It follows that I don't consider it fair or reasonable to direct Amex to do anything more in respect of section 75.

### *Conclusion*

While I appreciate this will come as a disappointment to Mr N, I can't say Amex has acted unfairly in how it's handled his claim. As explained Amex processed his chargeback in the way it should, but it discontinued the process, which seems reasonable, for the reasons explained. And as section 75 is prescriptive in the way a claim can be made, based on what I've seen the cost of the items in dispute individually didn't meet the necessary threshold. Given this I think Amex handled Mr N's chargeback claim fairly and although it didn't look at a claim under section 75, I don't think that's disadvantaged Mr N. As a result, I won't directing Amex to do anything here.

### **My final decision**

For the reasons set out above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 2 October 2025.

Victoria Cheyne  
**Ombudsman**