

The complaint

Miss V complains American Express Services Europe Limited (“Amex”) has acted unfairly by not refunding a payment she made using her credit card.

What happened

In July 2024, Miss V booked a one-night hotel package, with a company I’ll refer to as L, for a stay on 3 August 2024.

On 3 August 2024, Miss V contacted L to cancel the booking, as one of her party was unwell. However, L billed Miss V’s Amex credit card £990, which was the total cost of the stay.

Miss V asked L for a refund or credit note, but after reviewing matters L said as the booking was cancelled outside of the free cancellation period it wasn’t able to offer this. Unhappy, Miss V complained saying a refund or credit note should be offered under medical grounds. As L didn’t agree, Miss V contacted Amex for help in getting her money back.

Amex raised a chargeback with L, which is a process of asking the merchant for a refund via the card scheme provider. It also applied a temporary credit of £990 to Miss V’s account.

L defended the chargeback, saying it didn’t agree a refund was due as Miss V had cancelled the booking on the day of arrival and wasn’t entitled to a refund in line with the terms of the booking. As such, Amex told Miss V the claim had been unsuccessful and removed the credit previously applied to her account.

Miss V didn’t agree so contacted Amex again, this time in an attempt to claim a refund under Section 75 of the Consumer Credit Act 1974 (CCA).

Amex reviewed matters but declined Miss V’s claim. It didn’t agree there’d been a breach of contract as Miss V had cancelled on the day of arrival, so under L’s terms and conditions a refund wasn’t due. Amex didn’t change its position after Miss L complained, so she referred matters 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 and didn’t agree there’d been a breach of contract or misrepresentation by L. As Miss V had cancelled on the day of arrival, this was outside the timeframe allowed under the terms and conditions to warrant free cancellation.

Miss V didn’t agree and reiterated the medical issue a member of her party had been diagnosed with, happened on the day they were due to arrive. She explained it would have been unsafe and put other hotel residents at risk if they’d gone ahead with the booking. Miss V also considered that not providing a refund as a result of a medical condition constituted discrimination under the Equality Act 2010.

Our Investigator considered this but didn’t think it changed the outcome here. They explained as the member of the party who was unwell wasn’t the account holder or

secondary card holder, we couldn't consider the impact to them. And in any case, this Service couldn't say whether Amex had, or hadn't breached the Equality Act 2010, as this was only something a court could decide. But overall they didn't consider Amex had acted unfairly in how it handled Miss V's complaint.

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.

Firstly, I'd like to say I was sorry to hear a member of Miss V's party had become unwell, I can appreciate it would have been upsetting. I'd like to thank Miss V for sharing the details of their illness, while I've not repeated those here, as our decisions are published, I'd like to assure Miss V I've taken them into account when coming to my decision.

I think it would be helpful to explain, in this decision I'm only able to consider how Amex handled the dispute Miss V raised with it. I'm not able to consider the actions of L, 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 CCA. I will consider each of these mechanisms in turn below.

Chargeback

Chargebacks are not guaranteed to succeed, the recipient of the funds (L 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 Miss V says she was billed after cancelling the booking – which is one of the reasons this code can be used for.

One of the ways the merchant can challenge a dispute made under this rule, is to show the No Show Reservation Policy was provided at the time of purchase, and the consumer did not comply with this. Here L provided Amex evidence its terms and conditions, which were available at the time of purchase, required Miss V to cancel one day prior to arrival. Based on this defence, it appears Amex made the decision not to pursue the chargeback, which seems reasonable.

I say that because, Miss V cancelled the booking on the day she was due to arrive. While I understand Miss V says she had no choice but to cancel on the day, due to one of her party becoming unwell that morning, that isn't a reason under the rules for the 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.

It also appears, based on emails sent to Miss V by Amex, that it provided a temporary credit to Miss V's account, which was later reversed. While I've not seen the statements to confirm this, I don't think that's necessary as Amex can choose whether to apply a temporary credit or not. And while it appears it did so here, even if it hadn't, Miss V wouldn't have lost out as a result, as ultimately the claim was unsuccessful.

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 L provided evidence that Miss V cancelled on the day, it was able to charge the full amount under its terms and conditions. While Amex had the option to pursue the chargeback further after L defended it, I also think it's reasonable it chose not to do so.

As such, I can't agree Amex handled Miss V's chargeback claim unfairly.

Section 75 of the CCA

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.

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. Miss V paid £990 to L, so that's been met here.

A further condition is that there needs to be what is known as a debtor-creditor-supplier ("DCS") agreement in place. That was also met here.

I also need to be persuaded there has been a breach of contract or misrepresentation and if there has, what the resolution should be.

Has there been a breach of contract or misrepresentation?

Misrepresentation

For the purposes of this case, a misrepresentation is a false statement of fact which induces another party into a contract which leads them to suffer a loss.

Miss V is complaining L shouldn't have charged her, given she had no choice but to cancel the booking due to illness. As such, I think it would be more appropriate to consider this argument under a breach of contract.

I've also seen nothing that would represent a false statement of fact by L, which induced Miss V to enter a contract with it. So I've therefore gone on to consider whether there has been a breach of contract.

Breach of contract

A breach of contract occurs when one party to the contract fails to discharge its obligation to the other. These obligations may come about as a result of the express term of the contract, or because of terms implied by legislation.

Miss V's primary argument here is that she had no choice but to cancel, as a result of illness and as that only occurred on the day of arrival she was unable to do so earlier. She's also said, due to the specifics of the illness, L told her she had to cancel. She's said as a result

there'd been a breach of the Equality Act.

L's terms and conditions are clear as to the cancellation policy. The emails Miss V received both before and after booking state:

"Cancellation policy: 1-day prior arrival"

I also note, L's website states:

"Please allow 48 hours' notice of cancellation to avoid charges. Cancellations made within 48 hours of booking will incur a 100% charge."

While this is a longer period than L told Miss V via email, it still shows she didn't cancel in-line with the terms and conditions and as such, L were able to charge her the full amount. I should also say, I've not seen anything to say that cancellation due to illness, or anything else for that matter, means this term wouldn't apply. Given this as I'm not persuaded there's been a breach of contract here, Amex appear to have acted fairly in declining her section 75 claim as a result of this also.

For completeness, Miss V has said not receiving a refund is evidence of discrimination. She's explained that because one of her party was unwell, she was required to cancel the trip and believes L has been unreasonable in its response. As such, she says that they (the group planning the trip) are being discriminated against on medical grounds.

Firstly, as explained, I can only consider the actions of Amex and how it's handled Miss V's dispute, I can't consider the actions of L. Ultimately Miss V is unhappy L's policy doesn't offer a refund or credit note when a booking is cancelled on the day – but that's a separate issue to whether Amex handled her claim correctly. But in any case, as our Investigator explained this Service can't make a decision on whether the Equality Act 2010 has been breached, as this is only something a court can decide.

We can however consider whether Amex has treated Miss V fairly. And having reviewed everything, in detail, I've not seen anything to say the decision by Amex to decline Miss V's claim was as a result of the illness one member of her party suffered from. As explained, based on what I've seen I think Amex followed the process for both chargeback and section 75 in the way I'd expect. And as there were no grounds under either of these for Miss V to receive a refund, I don't think it acted unfairly in declining her claims. I should also say, Amex has no influence over L's cancellation policy, which Miss V had agreed to when booking in July 2024.

Taking everything into account, I'm not persuaded there has been a breach of contract in this case, so I don't think Amex acted unfairly in declining Miss V's section 75 claim.

Conclusion

While I appreciate this will come as a disappointment to Miss V, I can't say Amex has acted unfairly in how it's handled her claim. As explained Amex have processed her chargeback claim in the way it should, but it was unsuccessful. And section 75 is prescriptive in the way a claim can be made and based on what I've seen, there's no evidence there has been a breach of contract or misrepresentation here. So I don't think Amex acted unfairly in its handling or decline of Miss V's chargeback or section 75 claims, as a result, I won't be asking it 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 Miss V to accept or reject my decision before 12 September 2025.

Victoria Cheyne
Ombudsman