

The complaint

Mr B complains that American Express Services Europe Limited (Amex) has treated him unfairly in relation to its obligations with regard to a payment he made using his credit card.

What happened

On 6 November 2024, Mr B paid £2,453.99 using his Amex credit card to purchase a watch from a supplier who I'll call H. The cost of the watch was £2,449.00 and Mr B was charged an additional £4.99 for standard delivery. H arranged for delivery to take place through a well-known courier service, who delivered the parcel on 9 November 2024. Mr B contacted the police to file a report and contacted H denying receipt of the item promptly after the delivery date.

H reviewed Mr B's claim that he had not received the parcel and after some conversation with Mr B and liaison with the courier service, decided not to provide a refund to Mr B. Mr B then approached Amex to raise a chargeback on 26 November 2024. Amex raised a chargeback dispute under reason code "product not received" and H defended the dispute. On further review, Amex declined to proceed any further with the dispute. It also considered Mr B's claim under Section 75 of the Consumer Credit Act 1974 (Section 75) and declined the claim on the basis that there was not enough evidence to support a breach of contract claim.

Unhappy with this, Mr B brought his complaint to our service. Our investigator reviewed the complaint and said that as the parcel was left outside the front door of the property, there had been a breach of contract and Amex could be held liable for Mr B's losses. She recommended that Amex refund Mr B the £2,453.99 paid including interest paid on this amount, and £150 for the distress and inconvenience caused to Mr B as he had said this matter left him in debt and his credit score had been affected, increasing his interest rate on loans.

Amex disagreed with the outcome reached and asked for an Ombudsman to consider the complaint. It said there had not been a breach of contract as the goods had been delivered, and the safe place was agreed with someone within the property at the time. It pointed out that an email trail between H and Mr B in which Mr B was asked for pictures of the front door is incomplete. So, the complaint has now 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 would like to start by saying that I have provided a brief summary of the events that occurred above. I intend no discourtesy by this and can assure both parties that I have taken all the information provided into consideration when reaching a decision on this complaint.

In this decision, I'll concentrate my comments on what I think is relevant. If I don't comment on a specific point, it's not because I've failed to consider it, but because I don't think I need

to comment in order to reach a fair and reasonable outcome. Our rules allow me to do this, and this reflects the nature of our service as a free and informal alternative to the courts.

I also think it's worth clarifying that I'm deciding whether Amex acted fairly in assisting Mr B with his dispute against H. I'm not making a finding on the underlying dispute Mr B has with H. So, when considering what's fair and reasonable, I'm only considering whether Amex acted in line with its obligations as a provider of financial services.

Chargeback

Chargeback is a voluntary scheme under which settlement disputes are resolved between card issuers and merchants, under the relevant card scheme. A card issuer will review the claim against the possible reasons for a chargeback and look at whether it would be able to make a successful claim for the customer. Card issuers do not have to submit claims and usually will only do so, if it is likely to be successful. We don't expect them to raise a claim if there is little prospect of success.

In this particular case, I can see that Amex raised a chargeback using the most appropriate reason code in the circumstances. H responded to the chargeback defending its position. It provided evidence to show that the item had been dispatched and was delivered to Mr B's front door. H also provided the testimony of the delivery driver who said he had used the smart doorbell to speak to someone inside the property and had been asked to leave the parcel outside as they would be out shortly to collect it. Mr B says there are two flats inside the property, and his doorbell is clearly marked. He was not at home and did not speak to anyone. He has said the smart doorbell doesn't belong to him or work in general.

With the evidence being as it is, the matter essentially comes down to what Mr B says versus what the delivery driver says about what happened. The chargeback rules are not the most suitable for determining matters that are like this in nature, and I find it highly likely that had Amex pursued the chargeback further, it would not have been successful. I therefore find that it was reasonable for Amex to decline to take the dispute further on receipt of the defence evidence from H.

Section 75

Section 75 allows – in certain circumstances - for a creditor (Amex) to be jointly and severally liable for any claim by the debtor (Mr B) of breach of contract or misrepresentation made by a supplier of goods and/or services (H). We would expect Amex to consider whether there is a valid claim under Section 75 if a chargeback cannot be raised or is otherwise unsuccessful – and I can see that Amex took this action.

In this particular claim, Amex needed to explore whether Mr B's claim that the item had not been received constituted a breach of contract that it should be held liable for. Through the information and photographs provided, the courier service has shown that the parcel was delivered to the correct location. However, the picture taken shows the front door was closed, and the parcel was left next to the front door. Mr B says he was not at home at the time and by the time he returned, the parcel was gone.

H's website says the following about deliveries:

“For most deliveries the carrier will give you advanced notice by sending you email or text messages, keeping you updated as your parcel makes it's way to you. This also includes sending you an estimated delivery timeslot in many cases so you can arrange for someone to be home.

When delivering any of our standard items, if you're not in the courier will usually attempt to leave the parcel with a neighbour or in a secure location and they'll let you know (by email or leaving a card through your post box).

If there is nowhere safe to leave your parcel, they'll let you know they've attempted delivery & will try again, usually on the next day."

Having looked at the pictures provided, I do not find leaving the parcel by the front door, in view of passers-by to be a safe place. The delivery driver has said he recalls this specific delivery, and he was told through the ring doorbell to leave the parcel there. Mr H maintains that he was not at home and this did not happen. As our investigator pointed out, this essentially comes down to one party providing one version of the story and the other telling another. It is impossible to have proof either way as to who is correct.

Having considered Mr B's conduct throughout his claim and actions following the parcel delivery carefully, including immediate contact with H and the police to file a report, I find him to be plausible. The only clear evidence that we have is that the parcel was left in a place that was not safe. Further, the Consumer Credit Act 2015 says the following:

"29. Passing of risk

(2) The goods remain at the trader's risk until they come into the physical possession of—

(a) the consumer, or

(b) a person identified by the consumer to take possession of the goods."

In having left the parcel outside the front of the door, the parcel remained at H's risk as it was not passed to the consumer or a person identified by the consumer to take possession of it. As it went missing, it follows that H continued to be responsible for the loss Mr H has experienced. Amex has concerns about the incomplete email trail provided by Mr B however Mr B has shown us his response, and the pictures provided to H. These do show two distinctly labelled doorbells. I therefore find that Amex can and should be held liable for Mr B's loss under the connected lender liability afforded by Section 75.

In order to put things right, I find that Amex should refund the £2,453.99 that Mr B paid to H. Mr B has also complained about the impact this debt has had on him. I therefore find that Amex should re-work his account to exclude the interest accrued on this amount from the date that Amex declined the claim and provide a refund of interest paid on this amount (if at all). Lastly, the investigator has awarded £150 compensation for the distress and inconvenience caused by Amex. Mr B has spoken about the debt, the impact on his credit score, and the interest rates on loans as a result of this. I find this amount to be within a reasonable range to compensate Mr B for the issues he's experienced and so I am recommending Amex pay him the same amount.

My final decision

My final decision is that I uphold Mr B's complaint against American Express Services Europe Limited and direct it to pay:

- £2,453.99 which is the disputed amount
- A refund of any interest paid on this amount since the date the claim was declined to the date the settlement is made
- £150 compensation

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 16 October 2025.

Vanisha Patel
Ombudsman