

The complaint

Mr P complains about how AMERICAN EXPRESS SERVICES EUROPE LIMITED ('Amex') handled a claim he made to it.

What happened

The parties are familiar with the background details of this complaint – so I will briefly summarise them here. It reflects my role resolving disputes with minimum formality.

Around February and March 2023 Mr P used his Amex credit card to pay a supplier ('the recruiter') for services to help his nephew work in the UK. The recruiter offered to secure an offer of employment in the UK and provide the necessary sponsorship Visa.

In summary, Mr P says that his nephew arrived in the UK in April 2023 and found the job with the employer ('the employer') was not as expected. He says it was not full-time hours (leading to a lower salary than advertised) and the working conditions were poor, without proper supervision or training. Mr P says his nephew took the employer to tribunal and won the case – although it has not paid him anything to date.

Mr P considers the recruiter was running a scam and made a claim to Amex to get his money back. Amex did not uphold the claim. In summary, it said Mr P was too late to raise a chargeback, and the technical requirements were not in place for him to have a claim under Section 75 of the Consumer Credit Act 1974 ('Section 75') against it for the alleged wrongdoing of the recruiter.

A complaint about the matter was escalated to this service and not upheld. It has now been referred to me for a final decision. In summary, Mr P says:

- He is the '*contractual debtor*' and therefore has a Section 75 claim against Amex for the wrongdoing of the recruiter. And case law supports this.
- Although he acknowledges the chargeback window may have expired, the delays in referring the matter to Amex were partly due to ongoing engagement and attempts to resolve the matter with the recruiter. He should not be penalised for this.
- He maintains that the recruiter is in breach of contract. And he also says that as the recruiter was dissolved on Companies House at the time of the transactions this is a misrepresentation of its ability to lawfully deliver the services.

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.

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 with minimum formality.

I am sorry to hear Mr P is unhappy with the service he paid for. However, it is worth noting that Amex is not the supplier of the service. So when looking at what is fair I consider its role as a provider of financial services – and what it reasonably could have done to help with the information that was reasonably available to it at the time. As Mr P used a credit card to pay for the service in dispute I consider the protections of chargeback and Section 75 to be particularly relevant here.

Chargeback

One way Amex can potentially recover money in dispute is via the chargeback process. However, this is not guaranteed to recover money - and is subject to the rules of the Amex card scheme.

Here, based on the nature of the dispute a suitable reason code for raising the chargeback could be 'Not as Described or Defective Merchandise' (which also applies to services). However, the time limit to raise this would have been well expired by the time Mr P says he first contacted Amex around July 2024. This is because it has to be raised 120 days from the date the service was received. Here it is clear the service provided by the recruiter was received prior to April 2023 – over a year before Mr P contacted Amex.

Even if Mr P were to argue that another reason code like 'Goods or Services Not Received' applies here that would also be out of time too as it must be raised from when Mr P became aware the expected services would not be provided. Which would be around April 2023 when he says his nephew first realised the employment was not what he was expecting.

I know Mr P has said he ran out of time to raise the chargeback due to the engagement with the recruiter. But that doesn't change the rules. So, I don't consider Amex was acting unreasonably in not pursuing a chargeback here.

For completeness, it is worth noting that even if Mr P were in time to raise a chargeback I think (in light of similar considerations to those I mention below in regard to the Section 75 claim for breach or misrepresentation) it is not clear that the chargeback would likely have succeeded anyway.

Section 75

Section 75 in certain circumstances allows Mr P to hold Amex liable for a '*like claim*' for breach of contract or misrepresentation in respect of an agreement by a supplier of goods or services which is funded by the credit card.

There are certain requirements that need to be met for Section 75 to apply – which relate to things like the cash price of the goods and the parties involved. After considering these factors I do not think the requirements are in place for Mr P to have a claim against Amex for the alleged breach or misrepresentation by the recruiter. I will explain why.

For Mr P to have a claim against Amex for breach or misrepresentation by the recruiter there needs to be the relevant 'Debtor-Creditor-Supplier' agreement in place that gives rise to such a claim.

I think the evidence is clear, that it is Mr P's nephew who is the customer of the recruiter and contracting with it for the supply of its services here. I can see from correspondence that the offer of a job opportunity and associated Visa was made from the recruiter to his nephew. And his nephew responds to say he is 'interested' in this offer before his correspondence with the recruiter eventually culminates in a phone call to accept the offer. Mr P's involvement appears limited to financing the contract with his card through a payment

system. This stands to reason as the services are highly personal to Mr P's nephew involving his future employment and visa status – naturally it is he who would have to agree to these – and not Mr P.

Because of this, I consider the requisite 'Debtor-Creditor-Supplier' agreement is not in place to give rise to a claim by Mr P against Amex for the alleged breach of contract or misrepresentation by the recruiter here.

I note Mr P points to his role paying for the services and has argued that only the person who made the payment is entitled to bring a Section 75 claim. He has provided case law to underline this. I don't dispute that Mr P is the debtor here – and that it is he who is entitled to bring any Section 75 claim against Amex (and not others – like his nephew). But that does not help him here. While he is able to bring a claim, it has to be a valid '*like claim*' against Amex in respect of the breach of contract or misrepresentation being alleged.

A Section 75 claim is based on a claim the debtor would have in court against the supplier (in this case the recruiter). I am not convinced that Mr P, despite paying for the services, would be able to bring a court claim against the recruiter for the alleged breach/misrepresentation here. This would be his nephew who I am satisfied contracted with the recruiter for its highly personal services.

It follows that even if I accept that by paying the recruiter for services using Amex's card Mr P creates a 'Debtor-Creditor-Supplier' agreement, it is not the requisite kind that gives rise to a claim against Amex in respect of the breach of contract or misrepresentation alleged here.

I have considered the case law Mr P has provided. But I am not satisfied it changes things here. And because I don't consider his Section 75 claim against Amex is valid I do not think it was acting unfairly in declining it.

However, and in any event, even if Mr P had a valid claim here, I don't think he provided Amex with clear evidence that the recruiter had misrepresented or breached the contract for services. In brief, Mr P's submissions about the job his nephew received, and the recruiters' failings are largely based on his limited testimony. And in any event this testimony strongly indicates that the employer was in the wrong here and not the recruiter (he said his nephew won at tribunal against the employer which further underlines this). The recruiter appeared to have provided the Visa and job sourcing services it advertised. And Mr P did not produce clear contractual documents showing Amex the recruiter undertook responsibility for the core issues his nephew has alleged against the employer (beyond sourcing the role as offered by said employer).

Furthermore, even if the recruiter was not trading as a Limited Company at the time of the sale of its services as Mr P says, I think this is unlikely to be considered a misrepresentation here as Mr P alleges. A misrepresentation is based on a false statement of fact – it isn't based on perception of 'legitimacy' as Mr P appears to allege. Furthermore, the allegations he made to Amex are in relation to the job it found for his nephew and not clearly regarding statements made by the recruiter about its status.

I know Mr P has made serious allegations in respect of the actions of the recruiter (and employer) here. I remind him that my role is not to pass judgement on whether these things are accurate. Here I am informally looking at the actions of Amex in handling the claim based on the information it reasonably had available to it. Overall, and for all the reasons given here I am not persuaded that Amex has acted unfairly.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 1 October 2025.

Mark Lancod
Ombudsman