

The complaint

Mrs V is unhappy with how American Express Services Europe Limited (AESEL) handled her refund claim.

What happened

As all parties are familiar with this complaint, I'll only summarise the key background where necessary within my findings below.

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've read and considered the evidence submitted by the parties but won't comment on it all – only the matters I consider to be central to this complaint. This isn't intended as a discourtesy but reflects my role in resolving disputes informally.

It's important to note that AESEL aren't the provider of the services here – so in deciding what is fair and reasonable, I'm looking at their particular role as a provider of financial services. In doing so I note that because Mrs V paid for this transaction using an AESEL credit card, both chargeback and a S75 claim could possibly help her. So in deciding what is fair and reasonable I've focussed on this.

I won't be commenting in detail on the chargeback claim here because I do agree that it was brought out of time with mind to AESEL's rules. These state that the chargeback claim needs to be raised within 120 days from when the cardholder is expected to receive the service, or when they became aware that the service wouldn't be provided, whichever is first. In addition the maximum time frame for this is 540 days from the transaction date.

In this case, Mrs V has complained about the fact she took out a timeshare relinquishment service on 5 April 2019 with a business I shall call 'G' and paid a sum of £3,250.00 on her AESEL credit card for this. She says however that G didn't provide this service before they went into liquidation in October 2021.

I note there is another party that has also signed the service contract with G, however as the transaction was on Mrs V's card and this complaint is in relation to her refund claims, I'll only be referring to her within this decision.

So regarding chargeback, as the transaction date was 5 April 2019 but Mrs V says she only first contacted AESEL in 2022 after she discovered G had been liquidated, this would be out of time.

In addition, I don't think the chargeback claim had a reasonable prospect of succeeding, even if it had been in time, for the same reasons I've set out below for my considerations of the S75 claim.

S75

S75 provides that in certain circumstances the borrower under a credit agreement has an equal right to claim against the credit provider if there is either a breach of contract or misrepresentation by the supplier of goods and services.

To assess a valid claim, AESEL would've needed to consider all relevant evidence for the alleged breach of contract or misrepresentation. But for there to be a valid claim under S75 there are certain technical requirements and I'm satisfied they've been met here.

Mrs V's complaint is that G breached their contract terms to her because she doesn't believe the agreed service was given. I've considered G's terms and conditions as set out in the signed agreement of 5 April 2019. The key aspects here are that they say they would be 'endeavouring to achieve termination' of the timeshare and that it may be done in-house or associates may be instructed to do so.

It also says that there is *'absolutely no guarantee to the success of the claim nor, even if such a claim is successful, to quantum'*.

This means that the contract provided no assurance of a successful outcome and that G's responsibilities were limited to endeavouring to do so. I also note G didn't provide any timescales within which the service needed to be provided.

It follows that consideration of a possible breach of contract lies on whether there is sufficient evidence that G didn't endeavour to relinquish the timeshare. The issue here is that as there is a possibility that attempts to relinquish the timeshare were made in-house, I can't say Mrs V would've received any updates to its progress.

In addition, there were no documented timescales or assurances provided to its success either. With all of this in mind, I can't say there has been a breach of G's explicit contract terms.

I've also considered the implied terms of the Consumer Rights Act 2015, and particularly Section 49 which states that every contract to supply a service is to be treated as including a term that the trader performs the service with reasonable care and skill. In this case there is insufficient evidence to say G didn't perform the service with reasonable care and skill, because, as stated, no assurances were given to whether a successful timeshare relinquishment would even occur and when this would be.

With all of this in mind, and I know this'll be a disappointment to Mrs V, I can't say there is sufficient evidence of a breach of contract by G and that AESEL did anything wrong in their handling of the S75 claim. I therefore won't be asking them to do anything more.

I also want to briefly refer to the matter of misrepresentation as Mrs V has said that she was verbally told in April 2019 by G that the timeshare would be terminated. While I appreciate her testimony, for misrepresentation there would need to be evidence of a false statement of fact that induced her into the contract.

In this case, there is no documentary evidence of such an assurance beyond Mrs V's comments on what she was told. I therefore can't agree there is sufficient evidence that the contract was misrepresented either.

AESEL's customer service

Mrs V has also complained about the customer service provided by AESEL and particularly that an S75 claim wasn't raised when the chargeback was declined. However, an S75 claim was subsequently considered after her further submissions in April 2023 and I can't agree that AESEL did anything wrong in saying there wasn't enough evidence for a breach of contract or misrepresentation.

So while I appreciate AESEL could've progressed the S75 claim sooner, I don't think this had an impact on the outcome. I therefore won't be asking AESEL to do anything more here.

My final decision

For the reasons explained above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs V to accept or reject my decision before 16 January 2026.

Viral Patel
Ombudsman