

### **The complaint**

Mrs M complains that AMERICAN EXPRESS SERVICES EUROPE LIMITED (“AESEL”) refused to refund the money she had paid for faulty furniture.

### **What happened**

On 21 June 2024 Mrs M order three identical items of furniture from an online site. She was unaware the seller was located offshore and the items took some time to arrive. The first package arrived on 30 August 2024. She did not consider the packaging or the goods were acceptable and she contacted the merchant. It asked to her to take delivery of the remaining packages and check the goods. It also offered various refunds.

Mrs M was not satisfied and refused delivery of one of the packages and sought a refund. The packages remained unopened apart from one which was partially opened on delivery. She says that she was able to identify the goods were not of an acceptable quality from this partial opening.

As she was unable to resolve the matter with the merchant she contacted AESEL in September 2024. It raised a chargeback, but this was defended by the merchant which sent proof of delivery. AESEL notified Mrs M that it would not be taking the matter further. She contacted AESEL and it reopened the dispute, but closed it again soon afterwards. It rejected her subsequent complaint.

Mrs M brought a complaint to this service where it was considered by one of our investigators who didn’t recommend it be upheld. He said that there was little chance of a successful chargeback due to the rules of the card scheme operator. He also considered if a claim under section 75 Consumer Credit Act 1975 (“s.75”) would have been successful. However, he didn’t consider there was sufficient evidence to allow a claim. He thought AESEL had not handled the claim as well as it should and recommend it pay Mrs M £50 compensation. AESEL agreed.

Mrs M didn’t agree and asked that the matter be referred to an ombudsman.

### **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.

When the evidence is incomplete, inconclusive or contradictory as some of it is here – I’ve reached my outcome on the balance of probabilities – that is, what I consider likely to have happened given the available evidence and the wider circumstances.

I want to acknowledge that I’ve summarised the events of the complaint. I don’t intend any courtesy by this – it just reflects the informal nature of our service. I also want to assure Mrs M that I’ve reviewed everything on file. If I don’t comment on something, it’s not because I haven’t considered it. It’s because I’ve concentrated on what I think are the key issues. Our powers allow me to do this.

I have every sympathy with Mrs M, but I do not consider I can uphold her complaint. I will explain why.

Mrs M had two routes available to her to recover her money. One is a chargeback and the other is a claim under s.75.

Chargeback is a voluntary scheme run by the card scheme operator to process settlement disputes between the card issuer (such as AESEL) – on behalf of the cardholder (Mrs M) – and the merchant. It is not a legal right that the cardholder has.

The card scheme operator sets the chargeback rules and time limits for transactions made using the card scheme. And it is the card scheme operator that decides whether a chargeback is successful – the card issuer simply makes a request on the cardholder's behalf. If the card issuer knows it is out of time, or is unlikely to succeed, I wouldn't necessarily expect it to raise a chargeback.

The scheme has a number of codes under which claims must be submitted. The two relevant to Mrs M are code 4553 Not as described or defective merchandise and code 4554 Goods and Services not received. As Mrs M has, in effect, chosen not to accept the packages we do not have sufficient evidence to show the goods were not as described or defective. I appreciate she says one showed some damage, but I do not consider that is enough to support her claim. In short, she has not established the goods were defective.

It is clear the packages were delivered and the merchant has provided delivery details so I cannot say the goods were not received. Furthermore, the scheme rules require the consumer to engage with the merchant and I can see that it had a returns policy which Mrs M could have used. This would have required her to pay for the return postage but this was part of the terms and conditions of the purchase.

These rules are not set by AESEL and I cannot say that it did anything wrong in its efforts to recover Mrs M's money.

## Section 75

It doesn't appear that AESEL considered whether it ought to have honoured a claim under s. 75. I'd have expected it to have thought about whether this was an alternative way it could have assisted Mrs M, so I've considered whether it should have honoured a claim.

S.75 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 the goods or services, so long as certain conditions have been met. These conditions are, broadly speaking, that the claim needs to relate to items costing more than £100 and no more than £30,000, and that the claim needs to be against the same entity which has accepted the credit card payment.

I do not consider Mrs M has established there was either a breach of contract or misrepresentation. She ordered the furniture and it was delivered. Given she has not suggested any misrepresentation I presume the items were as ordered. She has suggested there was a breach of contract since the goods were not of merchantable quality, but again since the packages were not opened and inspected I cannot say that this was the case. The onus was on Mrs M to demonstrate that the goods were not of merchantable quality, but all AESEL has seen is a photo of a partially opened package and I cannot say this is enough for it to have upheld a s.75 claim.

Finally, I agree with our investigator that AESEL incorrectly told Mrs M that her case was

being reopened and that will have caused her to expect a positive outcome. For that I think she should be compensated with a payment of £50.

### **Putting things right**

AESEL should compensate Mrs M.

### **My final decision**

My final decision is that I uphold this complaint in part and I direct AMERICAN EXPRESS SERVICES EUROPE LIMITED to pay Mrs M £50 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 27 December 2025.

Ivor Graham  
**Ombudsman**