

American Express Services Europe Limited

DRN-6010055



The complaint

Mrs B complains that American Express Services Europe Limited (AESEL) did not properly pursue her chargeback request and rejected her claim under section 75 Consumer Credit Act 1974 ("s.75").

What happened

In November 2024 Mrs B purchased a bag online at a cost of £8,434.28. She paid for this using her AESEL credit card. She was concerned about the authenticity of the bag and the retailer provided an authentication certificate which she says was falsified. She then visited a local retailer which sold this make of bag and she says they concluded it was fake. This retailer sent photos to an independent expert to verify if the bag was genuine. The expert provided a report which determined the bag was fake.

In early January 2025 Mrs B contacted AESEL and sought its advice and support. She believed she had received a refund, but the retailer demanded she withdraw the claim and return the bag before it provided a refund. She was advised by AESEL not to withdraw her claim and she then received a threatening message from the retailer.

AESEL subsequently informed Mrs B that the claim was closed. She offered to return the bag in its sealed box to AESEL so it could be returned to the retailer, but this was not accepted and she was later informed that AESEL had ruled in favour of the retailer. It also did not consider a s.75 claim to have any merit as it did not believe there had been a breach of contract. However, it did offer her £100 compensation.

Mrs B brought her complaint to this service where it was considered by one of our investigators who recommended it be upheld. She concluded that as the bag had not been returned the chargeback would not have proved successful. However, she was satisfied that there had been a breach of contract as the evidence pointed to the bag being a fake.

AESEL didn't agree and said a physical examination by the independent expert would be needed to establish the bag was fake. Our investigator asked Mrs B for more detail regarding the independent examination. The expert provided the following:

"My client [X, the London retailer] submitted an extensive folder of approximately 35 photos of the counterfeit handbag that is referred to in my certificate [xxxx]. The photos were prepared following my instructions. The photos showed numerous discrepancies with an authentic [H] item which I could identify due to my extensive experience with genuine and counterfeit handbags. My authentications are performed based on photographic evidence. The discrepancies shown were obvious and there was no need to examine the item personally."

Mrs B also provided the invoice from the London retailer for the independent inspection and copies of 35 photos sent to the expert. However, AESEL remained unconvinced and asked that the matter be considered by 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 B 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.

Having reviewed the material and evidence supplied by both parties I consider I can uphold this complaint. I will explain why.

There were two routes by which Mrs B could recover her money either by a chargeback or 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 B) – and the merchant. It is not a legal right that the cardholder has.

The scheme operator sets the chargeback rules and time limits for transactions made using the card scheme. And it is the 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.

I appreciate Mrs B had concerns about her safety and providing further information to the retailer as part of the returns process, but in order for the chargeback to succeed the bag would have had to have been returned. As such I do not consider a chargeback would have succeeded.

The second route is a claim under s.75. This legislation offers protection to customers who use certain types of credit to make purchases of goods or services. Under s. 75 the consumer has an equal right to claim against the provider of the credit or the retailer providing the goods or services, if there has been a misrepresentation or breach of contract on the supplier's part. For s. 75 to apply, the law effectively says that there has to be a

- : • Debtor-creditor-supplier chain agreement and
- A clear breach of contract or misrepresentation by the supplier in the chain.

Our role isn't to say if there has been a breach of contract or a misrepresentation for a valid claim under s. 75 but to consider if AESEL has have come to a fair outcome based on the evidence provided. I am satisfied the required chain is in place and so I must consider if there has been a breach of contract or misrepresentation.

AESEL's main concern is that the bag was not physically inspected by the independent expert. However, it is clear Mrs B took it to a London retailer for an initial inspection and she says that they believed it to be a fake. However, they recommended it be considered by the independent expert. This expert has explained that she requested specific photos, totalling

35 which would allow her to identify if the bag was genuine or not.

I do not believe it is reasonable for either AESEL or this service to second guess what is the most appropriate means of verifying the authenticity of this particular bag and we have to rely on the knowledge of the expert. I am not sure why a physical examination is required if the expert considers it is not.

I also note that there are other concerns about the authenticity. The authentication certificate has a QR code which takes you to a fake site claims to show the bag is genuine. I also have noted the email from the retailer which states:

"We are willing to settle this amicably by sending you a shipping label and you returning the bag to us. Otherwise we will do it in the bad way so you can decide. Not only we will report you in the police in your country but also we have other resources to solve this problem. Trust me you don't want to have problems with us.

I await your response this time as I didn't receive one last time, and if we don't receive it you can expect the worst."

This does not suggest the retailer is genuine supplier of genuine luxury bags.

Overall, I believe the evidence Mrs B has provided along with her consistent testimony is sufficient to show there has been a breach of contract.

Putting things right

AESEL should refund Mrs B, £8434.28 plus 8% annual simple interest from the date it declined the claim until the date it settles it. It should also pay her £100 compensation if it has not already done so.

My final decision

My final decision is that I uphold this complaint and I direct American Express Services Europe Limited to compensate Mrs B as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 28 January 2026.

Ivor Graham
Ombudsman