

The complaint

Miss G complains that AMERICAN EXPRESS SERVICES EUROPE LIMITED (AESEL) rejected a claim she made under Section 75 of the Consumer Credit Act (Section 75).

What happened

In April 2025, Miss G purchased a packaged holiday through a supplier I'll refer to as "T". She paid £1,642.54 for the holiday for two people and used her credit card provided by AESEL to make the purchase.

Miss G started her holiday on 7 May 2025, and she says it was immediately clear that hotel wasn't to the standard she expected a 5-star hotel to be and she says it was more aligned with a 2-star. Miss G describes issues with room cleanliness, broken fixtures and fittings, rusty facilities, untidy and unclean communal areas, non-functioning air conditioning and insects in the room at night, substandard food and poor service.

Miss G says she complained to T about the standard of the hotel; and they offered her £80 in cash, or a £170 voucher, which she didn't think was reasonable.

Miss G raised the matter with AESEL, and it didn't think it was jointly liable to do anything for Miss G, as it hadn't found that there had been a breach in contract or misrepresentation.

Miss G remains unhappy with how AESEL has handled her claim, stating that:

- AESEL relied on false information provided by the hotel. AESEL explained that Miss G had received a room upgrade and fruit and wine as a resolution, which she says isn't true, as she wasn't ever offered nor did she receive fruit and wine.
- AESEL didn't consider or apply the appropriate weight to the photographic evidence she provided, which she says showed poor, unsafe and unhygienic conditions.
- AESEL didn't fairly assess misrepresentation under UK law.

An Investigator considered the evidence provided by both parties, but they didn't uphold her complaint. They explained that AESEL had handled both the chargeback and the Section 75 claim fairly. The Investigator ultimately agreed that it was reasonable for Miss G to have expected a higher standard of hotel, but that T had already made an offer that they felt was fair. So the Investigator didn't find that AESEL needed to do anything more for Miss G.

Miss G didn't agree with the Investigator's view. In summary, she explained that there was no mention that a 5-star hotel abroad isn't to the same standard as a 5-star hotel in the UK – and given that she booked the holiday in the UK, she expected the hotel to be of a 5-star UK standard. She added that she had sent numerous pictures which she feels evidence that the hotel was a 2-star hotel at best. She also added that she paid an additional £300, for a 'higher level property' which wasn't provided.

Because an agreement couldn't be reached, her complaint has been passed to me to decide on the matter.

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.

Having taken all of the available evidence from both parties into account, I'm sorry to disappoint Miss G, but I don't uphold her complaint. I'll explain why below.

Before I do that, I want to make it clear that I have read and taken into account all of the information provided by both parties, in reaching my decision. If I've not reflected something that's been said it's not because I didn't see it, it's because I didn't deem it relevant to the crux of the complaint. This isn't intended as a discourtesy to either party, but merely to reflect my informal role in deciding what a fair and reasonable outcome is. This also means I don't think it's necessary to get an answer, or provide my own answer, to every question raised unless I think it's relevant to the crux of the complaint.

I'm sorry to have read of the issues Miss G has had with T. However, as AESEL aren't the service provider, I can only consider whether it acted fairly and reasonably in light of its role as the finance provider.

In deciding if AESEL has acted fairly and reasonably, I have thought about the ways it could have helped Miss G get a refund. In this case, I consider the chargeback process and Section 75 of the Consumer Credit Act 1974 (Section 75) to be relevant. I will consider each of these mechanisms in turn below.

Chargeback

The chargeback process provides a way for the card issuer – in this case AESEL – to help a customer claim a full or partial refund of the amount they paid on their card, if certain things go wrong with what they've purchased.

The process is overseen by the card scheme – in this case, Amex. Card schemes set out various rules covering things such as what sort of scenarios are eligible for chargeback, the kind of evidence required, and the timescales for a chargeback to be raised.

Generally speaking, it is good practice for a card issuer to attempt a chargeback where the right exists and there's some prospect of success. That said, they're not guaranteed to be successful, and a consumer is not able to demand that their card issuer attempt one. A chargeback can be defended too; the party which received the payment – in this case T – can resist a chargeback attempt. If neither party concedes then, ultimately, the card scheme itself can be asked to rule on the dispute in a process called arbitration.

AESEL appear to have pursued a chargeback under the dispute reason code "*Credit/Debit presentment error*". I'm not entirely persuaded that this was the most relevant reason code to use in the circumstances – this reason code appears to apply when an account had been debited or credited in error, which isn't Miss G's claim.

That being said, even if AESEL had used a different reason code, for example, "*Not as Described Or Defective Merchandise*", I still don't think it would make much difference to the outcome of the claim.

I say this because T appears to have defended the claim, providing its terms and conditions and stating that Miss G had already been offered a partial refund. AESEL has explained that T's terms and conditions state that each country has its own system for rating properties, and that they're based on what facilities are available rather than their quality.

Where the merchant defends a claim, it is up to AESEL to decide whether or not to take the dispute further and ultimately on to arbitration to be decided by Amex – and it would usually only do this if it thought it had a reasonable prospect of success. I can't know for certain what view Amex would have held had the chargeback been taken to arbitration, however, I think on balance, T's arguments and evidence would have been favoured over Miss G's.

I say this because there is no evidence that the hotel wasn't as described, even when taking into account the photographic evidence provided by Miss G. And there is no official standard for star ratings that would allow AESEL to claim that T hadn't described the hotel accordingly. I know Miss G strongly disagrees with this point, but AESEL must consider a chargeback inline with the strict rules set by the card scheme. And given that there is no evidence that the hotel wasn't as described, I don't think it likely Miss G's claim would have had much prospect of success even if taken to arbitration.

So, I don't think AESEL unfairly decided not to continue with the claim based on the evidence that was available to it at the time. And in any event, I think Miss G's claim was better suited for consideration as a claim under Section 75.

Section 75

Section 75 allows Miss G to make a claim against AESEL in respect of the holiday she bought using its credit. However, for Section 75 to apply, certain criteria need to be satisfied relating to things like the parties to the transaction, the way the payment was made and the cost of the goods. I am satisfied this is met and Section 75 applies here.

For AESEL to be held liable under Section 75, I also need to be persuaded there has been a breach of contract or misrepresentation and if there has, what the resolution should be.

Misrepresentation

For the purposes of this case, a misrepresentation is a false statement of fact which induces another party into a contract which leads them to suffer a loss. So, to say there's been a misrepresentation AESEL would need to be able to conclude Miss G was told she'd receive something that turned out not to be true. Having reviewed the hotel literature on T's website, I haven't seen anything to suggest that T made a false statement of fact.

Miss G has made several arguments to say the information provided before booking was misleading. But it is my understanding that her main concern is that the star rating of the hotel was misleading and/or misrepresented. But based on everything I've seen, I don't think it was unreasonable of AESEL to have concluded that there hadn't been a misrepresentation. I say this because there's no internationally recognised 'star' classification, which would enable AESEL to make the finding that the hotel fell short of the classification it was given on T's website.

As I understand it, Miss G now says that she paid extra for a 'higher level room' which she says wasn't provided. I don't know if Miss G means that she didn't get the room she paid for, or if she means the quality was so poor that it didn't meet her standards especially considering she'd paid extra for it. From the booking information I've seen, it appears that Miss G paid extra for a room that is described as "Casual Swim-up Double Room with Pool view, Garden View and Shared Pool". As far as I can see, she hasn't previously made the

claim that she didn't get this room, and I am aware that after she complained to the hotel about the quality of the room, she was given a further two different rooms; so it is possible the room she ended up with wasn't exactly what she paid for. But, as I understand it, Miss G was upgraded to what T considered to be a better room, so it would seem unreasonable to conclude here that there had been a misrepresentation for this reason.

Based on what I've seen, there's no evidence there has been a false statement of fact here. So I can't say AESEL acted unfairly in declining Miss G's claim under Section 75 for this reason. I've also thought about whether the provision of any other service could be considered to have been misrepresented, but I don't think they could. I've therefore gone on to consider whether there has been a breach of contract.

Breach of Contract

A breach of contract occurs when one party to the contract fails to discharge its obligation to the other. This can be a breach of an "express" term of a contract – meaning something which is written into it. Or it can be a breach of what is usually referred to as an "implied" term, which is a term treated as being included in the contract due to, for example, legislation which says that it must be.

Much of Miss G's arguments here relate to the quality of the service provided. In summary she's complained about; the quality of the service received; the standard of cleanliness and maintenance issues.

Having reviewed T's emails along with its terms and conditions, it doesn't include any defined standards for the concerns Miss G has raised which, I should say, are subjective. But just because Miss G was unhappy with the service and quality of the hotel provided by T, and had concerns over cleanliness and maintenance, doesn't mean there has been a breach of contract.

As Miss G's contract was in the UK, the contract was covered by the Consumer Rights Act 2015 ("CRA"), and it would have been an implied term of Miss G's contract with T that the service it provided would have been carried out with "*reasonable care and skill*". It would also have been a requirement for T to accurately describe the accommodation.

Within the CRA *reasonable care and skill* isn't defined, allowing the standard to be flexible between sectors and industries. The price paid for the service should also be taken into consideration when considering *reasonable care and skill*. Miss G has provided several images of the accommodation and communal areas, along with testimony to describe the cleanliness and poor quality she says she received. However, having reviewed these, I'm not persuaded there is sufficient evidence here that T hasn't provided a service with reasonable care or skill or that it wasn't as described.

While I accept the photos Miss G provided show there were, amongst other things, some maintenance issues, I've not seen enough to say this amounted to a breach of contract. Much of the images Miss G provided seem to be general wear and tear and what I'd expect to see – this however is not grounds for concluding there has been a breach of contract.

It is clear that Miss G expected a better quality, given that she felt the 'official' star rating commanded better; but considering the price Miss G paid overall for the holiday – which included flights, transfers and accommodation; I can't fairly conclude that it was unreasonable of AESEL to have made the finding that there hadn't been a breach in contract and that T hadn't carried out the service with reasonable care and skill.

Miss G has raised several arguments so I've also considered more broadly whether any other aspect of the contract Miss G entered with T could be said to have been breached, but I haven't found that to be the case either. Taking everything into account, I'm not persuaded it was unreasonable of AESEL to have not considered there to have been a breach of contract in this case, so I don't think it acted unfairly in declining Miss G's section 75 claim.

Overall, while I appreciate this will come as a disappointment to Miss G, I don't think AESEL unfairly declined her claim under chargeback or Section 75. That's because based on the evidence Miss G provided, I don't think it likely the chargeback would have succeeded if taken to arbitration. As such, Miss G hasn't lost out as a result of AESEL not pursuing the claim further. And Section 75 is prescriptive in the way a claim can be made and based on what I've seen, there's no evidence there has been a breach of contract or misrepresentation. So, I don't think AESEL acted unfairly in declining Miss G's Section 75 claim.

I note that T did offer Miss G some money or a voucher. I have seen the correspondence between Miss G and T, where it offered this; and having reviewed this correspondence, it isn't clear why T offered what it did. For example, the correspondence doesn't say there had been a breach in contract. I think it likely that T made the offer to recognise that the service it provided wasn't to the standard Miss G expected it to be, but this doesn't mean that there had been a breach in contract or misrepresentation. And for the reasons I've set out above, I don't think it was unreasonable of AESEL to have concluded that there hadn't.

Because I haven't upheld Miss G's complaint, I won't be asking AESEL to make a payment to Miss G. But Miss G can approach T if she wants to accept its offer, if it is still available for her to accept.

My final decision

For the reasons set out above, I don't uphold Miss G's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept or reject my decision before 15 May 2026.

Sophie Wilkinson
Ombudsman