

## **complaint**

Mr F complains that NewDay Ltd rejected his claim under Section 75 Consumer Credit Act 1974 in respect of flights.

## **background**

Mr F booked several connecting flights with a company I'll call E. He says he encountered a number of problems. He didn't receive frequent flyer miles for one flight and the airline hadn't refunded him for a delayed flight. He also said that he didn't receive the complementary meal on two of his flights.

NewDay made a chargeback, but this was rejected by the merchant. Mr F complained about and this was rejected by the business. It said it hadn't received the additional information it had requested to pursue his claim. Mr F disputed this and said he had responded to the request for information. He brought his complaint to this service where it was considered by one of our adjudicators who didn't recommend that it be upheld.

He said that E wasn't responsible for the awarding of frequent flyer miles, this was an issue for the airline. He explained that Mr F hadn't provided details of the original flight times and so he couldn't establish the length of the delay.

He noted Mr F had taken the delayed flight and the adjudicator referred to the airline's terms and conditions stated: "...we shall at Our discretion, either c. offer a refund if We are unable to carry You to/from Your destination within forty-eight (48) hours from the scheduled time of departure". d. refund the value to Your bank account or credit or debit card if You choose not to proceed with Your trip due to a flight cancellation and/or rescheduling that occurs three (3) hours or more before or after the original scheduled departure time".

As such he didn't consider that the airline had breached its terms and conditions. He added that in the absence of evidence to show that Mr F was entitled to complementary meals he wasn't able to recommend that part of his complaint be upheld.

Mr F didn't agree and said the merchant should be obliged to provide all the documents and as the airline didn't provide him with the service per the contract he shouldn't have to pay. He thought that E's disclaimer regarding frequent flyer miles was a standard statement and didn't apply to his flight. He said the lack of evidence was due to the airlines not providing it and its failure to do so should support his claim.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I agree with E that it is not responsible for the awarding of frequent flyer miles. It merely booked the flight for Mr F and the provision of frequent flyer miles wasn't part of that contract. This is made clear in its terms and conditions. That is a matter between Mr F and the airline.

As for the delayed flight I have identified that it was scheduled to leave at 20.45. However, the airline notified him it had been changed and would depart at 23.55. It also offered him a several options including a refund if he didn't take the flight. However, he chose to take it and so no refund was payable.

On the matter of the meals there is no evidence that Mr F was entitled to these, but I asked NewDay if it would be prepared to make a goodwill gesture and pay Mr F £20 as per his claim. It agreed to do so, but only as a gesture of goodwill. I consider this to be a reasonable response.

**my final decision**

My final decision is that I do not uphold this complaint and I leave it to Mr F to decide if he wishes to accept the offer of £20 from NewDay Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 16 October 2017.

Ivor Graham  
**ombudsman**