

complaint

Mrs F complains that MBNA Limited will not refund to her the money that she paid for a holiday club membership that she says was misrepresented to her. Her complaint is made against MBNA under section 75 of the Consumer Credit Act 1974.

background

Mrs F made a payment of £1,604.33 in June 2008 using her MBNA credit card for a holiday club membership. She paid the outstanding balance of £9,900 from her bank account the following month. In 2013 she complained that the holiday club membership had been misrepresented to her and she then asked MBNA to refund the payments to her under section 75. She was not satisfied with MBNA's response so complained to this service.

The adjudicator did not recommend that this complaint should be upheld. She concluded that the debtor-creditor-supplier relationship required for a claim under section 75 to be successful was not present in this transaction. Mrs F says that the company to which she made her credit card payment and the company which was to provide the holiday club membership are connected and that her complaint against MBNA should be upheld.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

In certain circumstances, section 75 gives a consumer an equal right to claim against the supplier of goods or services or the provider of credit if there has been a breach of contract or misrepresentation by the supplier. One of those circumstances is that there must be a direct relationship between the debtor, the creditor and the supplier.

In this case the debtor is Mrs F because she made a payment using her MBNA credit card, the creditor is MBNA and the supplier is the company that was to provide the holiday club membership. However, Mrs F's credit card payment was made to a company that was not the supplier and the required relationship between MBNA and the supplier is therefore not present.

I am not persuaded that there is enough evidence to show that the company to which Mrs F's credit card payment was made and the supplier are "*associates*" as defined in section 184 of the Consumer Credit Act 1974. Although I sympathise with Mrs F for the difficulties that she has encountered, I consider that the debtor-creditor-supplier relationship required for a claim under section 75 is not present in these circumstances. I therefore do not consider that it would be fair or reasonable for me to require MBNA to refund the payments for the holiday club membership to Mrs F or to pay her any other compensation.

my final decision

For these reasons, my decision is that I do not uphold Mrs F's complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mrs F to accept or reject my decision before 11 December 2014.

Jarrold Hastings
ombudsman