

complaint

Mr W complains that NewDay Ltd won't honour a chargeback claim he's made for a failed watch repair.

background

Mr W has a credit card with NewDay. In November 2017 he paid for a service to his watch. But he was disappointed when the watch was returned to him with a fault and when he returned the watch to the merchant he was still unhappy with the quality of the work they'd carried out. He asked for a refund but was unable to secure this from the merchant.

So Mr W contacted NewDay. He asked them to process a "chargeback" and refund the £99.99 he'd spent on the service. On a phone call with them they explained that the £99.99 would be refunded to his card and he could consider the matter closed.

The £99.99 was refunded and Mr W proceeded to get his watch repaired. He was therefore very surprised to get a letter from NewDay in March explaining that they would be returning the £99.99 to the merchant and telling Mr W to get an independent report to show the problem he had with the service so he could dispute the transaction.

Mr W complained that this request was made too late. He'd already been told the matter was closed and had got the watch fixed. So he didn't have a fault for an independent company to examine anymore. He thought it unfair for NewDay to have told him the matter was closed and said that, as that led to him getting the watch fixed, they had prevented him from being able to demonstrate there were faults with the service he'd received.

He therefore referred his complaint to this service. Our investigator agreed with him. He listened to the call Mr W had with NewDay and understood that he would have left that call with the impression that the matter was closed. He thought this would have led him to get the watch repaired elsewhere. So whilst he thought it was normal for NewDay to be seeking an independent assessment he didn't think, in this instance, it was *fair* – as it was clear, having taken their advice, Mr W could no longer get one. So he suggested the most reasonable solution was for NewDay to refund the £99.99.

But NewDay disagreed and they asked for a final decision by an ombudsman.

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 think the most reasonable resolution to this issue is for NewDay to return Mr W's £99.99. I know this will disappoint NewDay so please allow me to explain why.

Where the information I've got is incomplete, unclear or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

When something goes wrong and the payment was made with a credit card, it might be possible to recover the money paid through a “chargeback” claim if there’s been a breach of contract or a misrepresentation made by the supplier.

Here there appears to have been a breach of contract by the supplier because the workmanship wasn’t to a satisfactory standard. But I think Mr W has been denied an opportunity to prove his case because, I agree, the information he was provided with in the telephone call with NewDay would, in all probability, have led him to believe the matter was closed.

I think the fact Mr W arranged a further repair demonstrates that he believed this was the case and also demonstrates he was unhappy with the quality of the first repair. It seems to make no sense for him to arrange a further repair otherwise.

So as Mr W can’t arrange an independent inspection and as I think it’s most likely the service he received from the merchant was unsatisfactory, I think the most reasonable action would be for NewDay to refund the £99.99 he spent on the original service.

my final decision

For the reasons I’ve given above I uphold this complaint and ask NewDay Ltd to refund £99.99 to Mr W in recognition of a successful chargeback request.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr W to accept or reject my decision before 12 April 2019.

Phil McMahon
ombudsman