

complaint

Ms K complains that the hotel room she booked was misrepresented to her and that Bank of Ireland (UK) Plc is responsible for this under section 75 of the Consumer Credit Act 1974.

Further Ms K complains that Bank of Ireland should remove the two late payment markers that it registered on her credit file.

our initial conclusions

Our adjudicator did not recommend that the complaint should be upheld. She was not satisfied that the contract had been misrepresented to Ms K. Neither did she consider that Bank of Ireland ought fairly to remove the late payment markers it registered on Ms K's credit file.

Bank of Ireland accepted this recommendation. Ms K did not and she asked that an ombudsman review her complaint.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Where there is a dispute about what happened, I have based my decision on the balance of probabilities - in other words, on what I consider is most likely to have happened in the light of the evidence.

was the hotel room misrepresented?

Section 75 provides that, under a very specific set of circumstances, a consumer may seek to recover money paid under a contract with a supplier from their credit card provider. There can only be a valid claim under section 75, however, if it can be shown that the supplier has breached or misrepresented the contract. In other words I can only hold Bank of Ireland responsible for the supplier's actions if I consider that the supplier made a false statement about the facts and this led directly to Ms K entering into the contract.

Ms K tells us she only booked the hotel room because she had been told that it would definitely have a DVD player. She says this was particularly important to her for two reasons. The first being she wanted to watch DVDs that were relevant to her job whilst staying at the hotel. Secondly because she was staying at the hotel alone and she wanted to watch DVDs to pass the time in the evening. She also she tells us she had to pay more for a room which had a DVD player in it.

Since Ms K says that the DVD player was so key to her, I find it difficult to understand why she did not apparently change hotels immediately given the room did not have a DVD player and the hotel apparently failed to provide her with one when asked.

We asked the hotel about the DVD player. It says none of its rooms come with a DVD player as standard but it does have one DVD player which customers can use free of charge. Although I accept that this may not have been the policy when Ms K stayed at the hotel. As she has demonstrated that the supplier did advertise the hotel room as having a DVD player.

I have had a look at the comments that Ms K left on the hotel's website she mentions the rude staff and the bad food but there is nothing about the failure to provide the DVD player she tells us she specifically requested and which was the only reason she stayed at the hotel. I find it hard to understand why Ms K focused on these elements of her stay rather than the lack of the DVD player which is the crux of her complaint. She tells us that this was because she was having technical issues in posting her comments to the site. If this was so I consider this is all the more reason why she would have mentioned the most important mistake first in her review rather than less central issues. She also seems to suggest in her post that she travelled as a couple to the hotel.

I have seen the booking voucher for the hotel which presumably Ms K received before she travelled. Under the "additional notes" section it says "please may we have a courtesy airport transfer from the airport to your hotel. It is our first time in Copenhagen and we will be very grateful". Her comments suggest she was not travelling alone.

With such discrepancies in mind I have some difficulty accepting the accuracy of Ms K's recollections.

It follows I am not satisfied that the room was misrepresented to her. So I am satisfied Bank of Ireland is not liable to Ms K under section 75.

is it fair in the circumstances that Bank of Ireland should remove the late payment information it registered on Ms K's credit file?

Ms K is dissatisfied because she tells us Bank of Ireland has registered information on her credit file about the late payments to her credit card.

She explains that she withheld payment because she was in dispute with Bank of Ireland. But she says if it had told her what the consequences of this would be she would have made payment and avoided the late payment information being put on her credit file. She says she has been treated too "harshly" by it.

I accept that Ms K may well have been unaware of the consequences of her actions. It did seem to take Bank of Ireland at least three months before it spelled this out to her.

However, it does appear the charges and the registration of the late payments were both in line with the terms and conditions of the account and its policies. Ms K would have accepted these when she opened the account.

Further, Bank of Ireland is obliged to register true and accurate information with the credit reference agencies. Moreover, by the time Bank of Ireland told her that if she did not pay she would incur charges and this could have an adverse impact on her credit file, she had already received a statement telling her about at least some of the late payment charges. So I consider she ought to reasonably have been aware at that point that she could not withhold payments because she had a dispute with the bank about the debt.

So for all these reasons I am not satisfied even if it had explained the situation sooner she could not have avoided having the late payment information registered on her credit file. It follows I do not consider that it should fairly be asked to remove that information.

my final decision

My final decision is that I do not uphold the complaint.

Joyce Gordon
ombudsman