

complaint

Mr C complains that Barclays Bank PLC, trading as Barclaycard, will not refund to him the money that he paid to a claims management company. His complaint is made against Barclaycard under section 75 of the Consumer Credit Act 1974.

background

Mr C used his Barclaycard to pay £410 to a claims management company in February 2009. He complained to Barclaycard in July 2011 and he contacted it again in September 2014. Barclaycard paid him £50 compensation for not contacting him as it said it would but did not uphold his complaint. He was not satisfied with Barclaycard's response so complained to this service. The claims management company has stopped trading.

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 was not present in these circumstances.

Mr C has asked for his complaint to be considered by an ombudsman. He says, in summary, that the director of the claims management company and the payment services provider were the same and that the addresses of the two companies were the same. He also says that he has received a refund from another bank under section 75 for a payment that was made through the same payment services provider.

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 Mr C's case, he is the debtor because he has used his Barclaycard to make a payment to the supplier, Barclaycard is the creditor because it has supplied credit to him and the supplier is the claims management company. But Mr C's payment was made to a payment services provider and not to the claims management company. The two letters and number which are shown on his account statement for the payment refer to the payment services provider. The name which is shown after the letter and number refers to the company which then received the payment from the payment services provider. That company was an associate of the claims management company. The definition of "associates" is set out in Section 184 of the Act. The evidence that has been provided by Mr C does not show that the payment services provider and the claims management company were "associates".

Mr C's payment was made to a payment services provider so there is no direct relationship between Barclaycard and the claims management company. And I do not consider that the debtor-creditor-supplier relationship required for a successful claim under section 75 is present in this transaction. This service considers each complaint on its individual merits and another bank's response to a claim in similar circumstances does not mean that Barclaycard should refund Mr C's payment in these circumstances.

I therefore do not consider that it would be fair or reasonable for me to require Barclaycard to refund the £410 payment to Mr C or to pay him any other compensation. Barclaycard has paid £50 compensation to Mr C for not contacting him as it said it would and I consider that to be fair and reasonable in the circumstances.

my final decision

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

Under the rules of the Financial Ombudsman Service, I am required to ask Mr C to accept or reject my decision before 2 November 2015.

Jarrold Hastings
ombudsman