

## **complaint**

Mr K complains that NewDay Cards Limited will not refund to him the outstanding amount that he paid to an airline.

## **background**

Mr K used his NewDay credit card in April 2014 to pay £433.95 for a ticket for a flight to another country. He did not use the ticket because he says that the airline told him that no other British nationals were flying to the destination and that it had made a mistake in selling the ticket to him. He asked the airline for a refund because he said that the flight had been misrepresented to him. It refunded £40.95 to him and he then asked NewDay to refund the balance of £393 to him. It made a chargeback claim for that amount which was defended by the airline. Mr K was not satisfied with NewDay's response so complained to this service.

The adjudicator did not recommend that this complaint should be upheld. He concluded that the chargeback was successfully defended by the airline as Mr K was classified as a "no show" for the flight and he was not able to establish that a misrepresentation or breach of contract had taken place.

Mr K has asked for his complaint to be considered by an ombudsman. He says, in summary, that the airline told him that it did not offer accommodation at Mr K's intended destination because no British nationals were flying there and that he relied on its comments.

## **my findings**

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

NewDay made a chargeback claim to the airline for £393 but it was successfully defended by the airline because Mr K was classified as a "no-show" for the flight that he had booked. I consider that NewDay has acted correctly in connection with the chargeback and that, when the claim was successfully challenged by the airline, it was entitled to debit the disputed amount from Mr K's account.

In certain circumstances, section 75 of the Consumer Credit Act 1974 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. To be able to uphold Mr K's complaint about NewDay under section 75, I must be satisfied that there has been a breach of contract or misrepresentation by the airline.

Mr K bought an airline ticket. The flight went to the intended destination, there was no restriction on Mr K travelling to that destination and he was entitled to buy a ticket for that flight. He says that the airline told him that it did not offer accommodation at his intended destination because no British nationals were travelling to that destination. There was no requirement for the airline to offer any accommodation to Mr K and I consider that it was his decision to then not use the ticket. The airline may have told Mr K that no other British nationals were flying to that destination but he was entitled to do so and it was his decision to buy the ticket. I am therefore not persuaded that there has been a breach of contract or misrepresentation by the airline.

The airline has refunded £40.95 to Mr K and I do not consider that it would be fair or reasonable for me to require NewDay to refund the balance of £393 to him under section 75 or otherwise or to pay him any other compensation.

**my final decision**

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

Under the rules of the Financial Ombudsman Service, I am required to ask Mr K to accept or reject my decision before 28 May 2015.

Jarrold Hastings  
**ombudsman**