

## **complaint**

Mr C's unhappy that Nationwide Building Society rejected his claim under section 75 Consumer Credit Act 1974 for the refund of a deposit he paid for a car hired abroad.

## **background**

Mr C says he hired a car abroad but wasn't refunded the deposit by the hirer as promised. And he says it's created a fraudulent document showing he hired a separate vehicle which he says he didn't. He wants Nationwide to refund the deposit he paid to the hire company.

Nationwide said in its final response that Mr C had previously raised a chargeback request which was declined. It's also declined his claim for a refund under section 75. The first hire agreement was for an Audi and contains Mr C's full credit card number and personal information. And a chip and pin payment was made for it. But the second hire agreement for a Corvette is in Mr C's friend's name, shows a different credit card number to Mr C's and displays the proof of the refundable deposit. And there's no evidence Mr C paid for this deposit. Nationwide hasn't made an error.

Our investigator felt this complaint shouldn't be upheld. She said:

- To pursue a section 75 claim there must be an unbroken chain between the debtor (Mr C), the creditor (Nationwide) and the supplier (the car hire company). Here there isn't.
- For Mr C's section 75 claim to be successful he would've had to have used his Nationwide credit card to pay the deposit on the hire agreement for the Corvette. But the agreement noting the refundable deposit for the rental of the Corvette is in the name of Mr C's friend and Mr C isn't named on it. In addition the friend's credit card number is the only one noted on that agreement.
- So here the relevant contract is between Mr C's friend and the car hire company. This creates another link in the chain. As a result there is no debtor- creditor-supplier relationship and it's not possible for her to hold Nationwide responsible for Mr C's section 75 claim.

Mr C doesn't agree and has asked for an ombudsman review. He says his evidence is conclusive. He's reiterated that fake documents have been provided. He hired the Corvette car alongside his friend. He paid part of the deposit. The original documents show the correct parties, signatures, car registrations and credit card details. There's also confirmation he was a joint driver and had paid part of the deposit.

Nationwide has highlighted a large number of inconsistencies it says are apparent in what Mr C has said and the evidence he's provided. In summary it questions the changes apparently made to the invoices, why a refund wasn't requested from the car hire company and says there's no evidence supporting Mr C's statement that he tried to resolve things with the car hire company.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In deciding what's fair and reasonable I take into account relevant law. Mr C makes his complaint under section 75 of the Consumer Credit Act 1974 which in certain circumstances gives a consumer an equal right to claim against the supplier of a service or the provider of credit, if there's been a breach of contract or misrepresentation by the supplier.

Mr C alleges some of the documentation has been altered by the hire company and is fake and fraudulent. And he's questioned the information about hiring two cars and the information recorded on the paperwork. He says the car he rented had a refundable deposit and he paid for at least part of it on his Nationwide card. He also now says correct paperwork is available showing he was a joint driver and party to the agreement.

Nationwide has highlighted and questioned inconsistencies in what Mr C has said and the evidence he's provided.

It isn't for us to investigate or prove whether documents are genuine or fake or whether a fraud has been committed. What I must consider is whether Nationwide has acted fairly on the available information when dealing with and declining Mr C's section 75 claim.

Despite what Mr C's said there's nothing to prove which paperwork is fake or genuine. Or if any or which documents have been fraudulently created or altered. And there appears to originally to have been two car hire agreements showing two cars being rented.

The problem for Mr C in making his section 75 claim is that the agreement which bore all his details didn't mention a refundable deposit.

In this case there's documentation showing that the agreement with the refundable deposit related to a Corvette car that was hired by Mr C's friend and it set out that person's credit card details. It doesn't mention Mr C or his card details. The other agreement - which documents correctly Mr C's personal details, driving licence number and credit card information - showed Mr C hired an Audi which he paid for with a chip and pin payment. And there wasn't a refundable deposit.

Mr C has said fake documentation has been produced. And he now says there's documentation showing he was a party to the agreement hiring the Corvette and that he paid some of the refundable deposit referred to in it.

To successfully make a section 75 claim Mr C must establish that there's an unbroken chain between himself as the debtor, Nationwide as the creditor and the car hire company as supplier. But some of the documentation in this case suggests otherwise as the agreement shows Mr C's friend would be the debtor and the other credit card company would be the creditor.

I also have to agree with Nationwide that there are considerable inconsistencies in the evidence provided in this case. And there's conflicting information about what happened. There's also an absence of proof that the documentation from the hire company was changed or of what is genuine, fake or fraudulent.

Taking everything into account I'm not persuaded on balance that Mr C has established in this case the necessary debtor–credit–supplier relationship required for him to make a successful claim under section 75. And as such I think Nationwide has acted fairly and reasonably by declining his claim under section 75 for a refund of any deposit he paid.

I recognise Mr C's strength of feeling and frustration but I don't see any compelling reason to change the proposed outcome in this case.

**my final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 27 April 2019.

Stephen Cooper  
**ombudsman**