

complaint

Mr W complains that National Westminster Bank Plc won't refund to him the amount that he's claimed for his purchase of a multi-media car stereo unit. His complaint is made against NatWest under section 75 of the Consumer Credit Act 1974.

background

Mr W used his NatWest credit card in April 2018 to pay £124.64 for a multi-media car stereo unit that he bought using an online marketplace. He says that the unit developed a serious fault after about five months and the sat-nav function doesn't work at all. He contacted the supplier which said that he should return the unit to it – and it credited him with £30 to cover the return costs. But Mr W says that he found out that it would cost him £51 to return the unit to the supplier because it's overseas. So he claimed a refund of £94.64 (being the cost of the unit less the £30 that he's received from the supplier) from NatWest under section 75. But he wasn't satisfied with its response so complained to this service.

The investigator didn't recommend that this complaint should be upheld. She said that Mr W's payment was made to the online marketplace – and not directly to the supplier – so there was no direct relationship between NatWest and the supplier. And because of that she said that the contract wasn't formed in a way that creates the necessary debtor-creditor-supplier relationship. So she concluded that it wouldn't be fair for her to say that NatWest should refund Mr W under section 75.

Mr W has asked for his complaint to be considered by an ombudsman. He says, in summary, that:

- he finds it incredulous that the online marketplace can act as a retailer but isn't subject to the same trading obligations as other retailers;
- the online marketplace has failed to make sure that the supplier had complied with the requirement to either provide a local return address or pay the return postage should the item be faulty; and
- the online marketplace is at fault here and, as the money transaction was between it and NatWest, NatWest is jointly responsible for his loss under section 75.

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 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's been a breach of contract or misrepresentation by the supplier. One of those circumstances is that there must be a relevant relationship between the debtor, the creditor and the supplier.

In this case Mr W is the debtor because he's used credit provided by NatWest to pay for the unit, NatWest is the creditor because it's provided credit to Mr W and the supplier is the entity that supplied the unit to Mr W. But Mr W bought the unit using an online marketplace and his payment was made to the online marketplace (and not to the supplier). Yet it was the supplier (and not the online marketplace) that supplied the unit to Mr W. That means that there's no relevant relationship between NatWest and the supplier -so Mr W's claim against NatWest under section 75 can't succeed.

I can understand Mr W's frustration about this but the requirement for a debtor-creditor-supplier relationship is set out in section 75. And the online marketplace does offer guarantee protection in some circumstances when a buyer can't reach an agreement with the supplier. But in this case, the supplier has asked Mr W to return the unit to it – but he hasn't done so because of the cost of returning it. Mr W clearly feels that the online marketplace hasn't acted properly. But his complaint is about NatWest and not the online marketplace – and NatWest would only be liable under section 75 if, amongst other things, there was a relevant debtor-creditor-supplier relationship.

I'm not persuaded that there's enough evidence to show that NatWest has acted incorrectly. So I find that it wouldn't be fair or reasonable in these circumstances for me to require NatWest to refund to Mr W the £94.64 that he's claimed – or to take any other action in response to his complaint.

my final decision

For these reasons, my decision is that I don't uphold Mr W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 8 August 2019.

Jarrold Hastings
ombudsman