

complaint

Mr C complains about a rental car which he paid for using his Santander UK Plc credit card. In summary, he says the car was damaged and didn't work properly. And he made a complaint to Santander about it under Section 75 of the Consumer Credit Act 1974.

background

Our adjudicator didn't uphold this complaint. He explained that it wasn't reasonable for Santander to refund Mr C for the actions of the rental car supplier ('Supplier A') because the credit card payment went to a booking agent ('Agent B') which hadn't done anything wrong.

Mr C disagrees. In summary, he says that Agent B didn't give him a choice about the supplier, and it should be forced to *'uphold his rights as a consumer'*.

my findings

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

Subject to certain rules Section 75 makes the provider of credit equally responsible where there is a case of breach of contract or misrepresentation by the supplier of goods or services paid for using its finance. However, for Section 75 to apply the finance payment must be made directly to the supplier of those goods or services.

In this case, Mr C's credit card payment was made to Agent B, which then booked a rental car with Supplier A. I know Mr C says that he didn't choose the supplier, but with Section 75 in mind, because Supplier A didn't receive the credit card payment I don't think it would be fair to say that Santander is responsible for its actions.

Where a third party has taken a credit card payment Section 75 will only apply where that third party is an "associate" of the supplier as defined by s184 of the Consumer Credit Act 1974. The Act defines an association very narrowly and I am not convinced there is one here.

Santander is responsible for the actions of Agent B because it took the credit card payment. I know that Mr C says that Agent B acted poorly too. However, from what I have seen I just can't be sure it did. I am satisfied that it was only acting as a booking agent. I can see that Mr C asked it to book him a rental car and it did that. I can't say that it was responsible for the quality of the rental car in this case.

Mr C is unhappy that Santander didn't raise a chargeback. Our adjudicator didn't think that the chargeback had much chance of succeeding. I agree with this because Agent B didn't appear to do anything wrong here. I don't think Santander made an error by not raising a chargeback.

I am sorry to hear about Mr C's experience with the hire car. I am not saying that Supplier A didn't do anything wrong. I am only saying that it isn't fair to hold Santander responsible 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 9 December 2015.

Mark Lancod
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