

complaint

Mr and Mrs W complain National Westminster Bank Plc unfairly rejected their claim under section 75 of the Credit Consumer Act 1974 (s75) for misrepresentation and breach of contract. They want a full refund of their original transaction.

background

Mr and Mrs W paid £1,561.83 on Mrs W's NatWest credit card to a holiday home company in 2012 for the company to sell/relinquish their timeshare.

Mr and Mrs W feel the company misrepresented the services to them. So they made a claim to NatWest under section 75 of the Consumer Credit Act 1974 (s75) trying to get their money back.

NatWest declined their s75 claim as Mr and Mrs W weren't able to provide any kind of invoice, contract or agreement to show what services they've paid for. So they couldn't establish that there was a breach of contract or misrepresentation.

Our investigator looked into things for Mr and Mrs W and found Nat West couldn't accept the claim as Mr and Mrs W were unable to provide the information needed to establish if a breach of contract and/or misrepresentation had occurred and so she didn't ask the bank to do anything else.

Mr and Mrs W disagreed as they feel they should be able to pursue a claim under s75 and so asked for this review.

my findings

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

I can see Mr and Mrs W are very disappointed and feel they are entitled to some form of protection after paying a considerable sum of money for services they consider to have been misrepresented.

As they paid for these services on Mrs W's Nat West credit card they are able to bring a claim under s75 of the Consumer Credit Act 1974. This does not entitle Mr and Mrs W to an automatic refund but requires them to prove that the services they paid for were misrepresented or, that the contract between themselves and the company they are in dispute with was breached in some way.

Mr and Mrs W have provided the credit card statement to show a payment was made to the company in question in February 2012 but this in itself is not enough to pursue a claim.

I appreciate Mr and Mrs W have said most of the agreement was verbal but there should still have been some tangible evidence of an agreement or contract. In the absence of this, I'm unable to establish, as Nat West were, whether there are grounds to pursue a claim under the requirements of the s75 legislation.

I can't say that Nat West have acted unfairly or unreasonably here and so whilst I appreciate Mr and Mrs W will be disappointed I can't ask the bank to do anything further.

my final decision

For the reasons I have given I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs W to accept or reject my decision before 24 November 2017.

Wendy Steele
ombudsman