

The complaint

Mr S complains about the handling of a chargeback by American Express Services Europe Limited (AESEL) for flights booked with his charge card.

What happened

Mr S's son is an additional card holder on Mr S's account with AESEL. He purchased return flights for himself and his partner on 30 March 2022 with a supplier I'll call "E" and the cost of this was £361.70. The outbound flight was on 25 April 2022 and the return flight was on 2 May 2022.

Unfortunately, Mr S's son's partner tested positive for Covid-19 shortly before the outgoing flight and Mr S's son showed symptoms of Covid-19. Both were advised to isolate from 24 April 2022 to 3 May 2022.

Mr S's son contacted E a couple of days before the outbound flight. They told him not to travel to the airport. This meant Mr S's son and Mr S's son's partner weren't able to take the flights they had booked. Mr S says E asked his son to contact them to request a full refund and to provide them with a copy of the document showing the positive Covid-19 test and confirmation he'd been told to isolate.

E didn't reply to Mr S's son once he provided those details so Mr S contacted AESEL to help resolve the dispute. AESEL raised a chargeback for a full refund, but E defended the claim saying that Mr S's son was only entitled to a partial refund, that being the tax amount of £46.23.

Mr S complained to AESEL as he felt they hadn't handled the chargeback appropriately. He said they'd failed to properly review the documentation he'd submitted to support his son's claim following E's response to the chargeback. He mentioned that his son hadn't cancelled the booking, rather E had failed to provide the service and had told him not to travel. Mr S said E incorrectly told AESEL that his son was a 'no-show' for the flights. He also felt AESEL hadn't properly scrutinised E's refund policy and their policy in respect of serious illness.

AESEL didn't uphold the complaint, so Mr S referred the matter to us. Our investigator didn't think Mr S's complaint should be upheld. She said, in summary, that AESEL was correct not to challenge E's response to the chargeback as there was insufficient evidence that E had breached their terms and conditions by not refunding Mr S's son.

Mr S didn't agree with the investigator and asked for an ombudsman to review his complaint.

What I've decided – and why

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

The Covid-19 pandemic brought with it many issues relating to travel which could not go ahead as planned. But the right to a refund when a flight hasn't happened as expected

because of Covid-19 (as in this case), isn't automatic. It depends on the individual circumstances of each case.

Here, I'm looking at the actions of AESEL and whether they acted fairly and reasonably in the way they handled Mr S's request for help in getting the money back for the flights. This will take into account the circumstances of the failed trip and how the supplier has acted, but there are also other considerations, such as the scheme rules a bank has to follow and their own obligations.

As Mr S's son paid for the flights on Mr S's charge card account, realistically the only way AESEL could have helped Mr S recover the money paid to E was through the chargeback process.

In certain circumstances, the chargeback process provides a way for a bank to ask for a payment made to be refunded. Where applicable, the bank raises a dispute with the supplier and effectively asks for the payment to be returned to the customer. While it is good practice for a bank to try a chargeback where the right exists and there is some prospect of success, the circumstances of a dispute means a refund isn't guaranteed. When a supplier defends a chargeback, this can lead to further representations by the cardholder's bank, if they consider the supplier has raised a weak or invalid defence. The process then allows for further representations to be made if the parties still not agree, and for the card scheme to decide who gets to keep the money.

Here, AESEL raised a chargeback for Mr S, but it was defended by E on the basis that the flights operated as normal and that he wasn't entitled to a refund because Mr S's son was unable to use the flights due to matters beyond their control.

I've thought about the dispute conditions that might have been relevant here, such as where a merchant is obliged to provide a refund if a customer doesn't use the service provided, but then refuses to provide one. Having looked at E's terms though, I'm not persuaded that Mr S's son was entitled to a refund in the event he didn't board the flight. I say this because E's terms on cancellations due to serious illness only sets out that E would review the case and 'may' offer a flight voucher towards the value of a subsequent flight or a refund. The term doesn't set out that Mr S's son was automatically entitled to a refund or that this was guaranteed.

I accept that E's terms set out that customers shouldn't travel to the airport or travel if they tested positive for Covid-19 or displayed symptoms of this. And I note also that E incorrectly told AESEL that Mr S's son was a 'no-show' when clearly E advised him not to travel. However, it still remains that E's terms set out that any refund was at their discretion. And I've not seen sufficient evidence that E promised to give Mr S's son a refund, or that AESEL was presented with such evidence, that would make E's defence to the chargeback weak or invalid. E also likely would have continued to defend the chargeback even if AESEL had taken matters further.

I do sympathise with Mr S as clearly his son and his son's partner made the very sensible, and understandable decision not to travel to the airport and board the flights and did so upon E's advice. And it's not to say that Mr S doesn't have a claim of any kind. Chargebacks aren't though a way of determining someone's legal rights to a claim. Overall, I don't find that AESEL mis-handled Mr S's chargeback claim.

My final decision

For the reasons I've explained above, my final decision is that I do not uphold Mr S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 9 February 2024.

Daniel Picken
Ombudsman