

The complaint

Miss W is unhappy with how Starling Bank Limited ('Starling') handled a claim she made to it.

What happened

The facts are well known to the parties so I will cover these briefly and focus on giving reasons for my findings.

Miss W bought a clip on dental product using her Starling debit card to make the initial instalment of £150– she says that the product arrived late, and when it came it did not fit / match her order. She wants a refund.

The supplier of the product said Miss W received it in the correct timescale and that it offered to remake the product for her but she refused this and raised a chargeback.

Starling raised a chargeback for Miss W but it was defended by the supplier and not pursued further. Miss W is unhappy that Starling was unable to get her a refund and complained.

Our investigator looked at the complaint but didn't uphold it.

Miss W has asked for an ombudsman to make a final decision. In summary, she says:

- The reason she raised the initial dispute was because (despite receiving goods) she did not receive the item she ordered – therefore she disagrees that the order was received;
- She didn't know she could request a chargeback for 'not as described/defective' goods so requested one for 'not received' on advice of the Starling advisor;
- She does not agree that the supplier took reasonable action in relation to its warranty – and for the warranty to take effect the supplier needs to send over the correct item in the first place.

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.

I have read and considered the evidence submitted by the parties but won't comment on it all – only the matters I consider to be central to this complaint. This isn't intended as a discourtesy but reflects my role in resolving disputes informally.

It is important to note that Starling is not the provider of the goods here – so in deciding what is fair and reasonable I am looking at its particular role as a provider of financial services. In doing so I note that because Miss W paid for the product using her debit card chargeback was a way Starling could possibly help her. So in deciding what is fair and reasonable I have

focused on this.

There is no requirement for Starling to raise a chargeback, but it is often good practice to do so. However, a chargeback is not guaranteed to succeed and is governed by the limitations of the particular card scheme rules (in this case Mastercard). I have considered the relevant chargeback rules in deciding whether Starling acted fairly.

Here it appears that Starling raised the chargeback as 'goods or services not provided' – however, the supplier defended this and Starling discontinued the process. On the face of it I don't think Starling acted unreasonably here because courier and other evidence including correspondence showed that Miss W did actually receive the goods. So I don't think this chargeback had a reasonable chance of succeeding had it been pushed further.

I note that Miss W in her submissions refers to the goods arriving later than expected. However, it isn't clear to me that this chargeback reason has provision for that. Even if it did, from the information I have seen I am not persuaded the goods came later than they should have. I don't see a guaranteed delivery date or agreement about when they had to arrive by – the assurances appear to be around the timeframe for the manufacturing process on apparent receipt of the customer teeth impression (and there is no persuasive evidence this wasn't complied with in any case).

I also note that Miss W has said because the goods were not correct that she didn't actually receive the goods. However, there isn't a dispute that she ordered and received a clip on dental product – so essentially she did get the goods albeit goods that she wasn't happy with quality wise. So I think the rationale Miss W is suggesting for continuing the chargeback is not one I would reasonably have expected Starling to have taken here.

So overall I don't think a chargeback for goods not received had a reasonable chance of success. Miss W says that Starling told her to use this reason code – it isn't clear if it did but in any event I don't think a chargeback in the alternative had a reasonable prospect of success.

Starling could have potentially raised a chargeback for goods 'not as described/defective' but the chargeback rules refer to this only being a valid reason code if the supplier has refused to offer a remedy such as a repair/replacement. Here the supplier did offer to remake the goods under the terms of the guarantee (and as long as Miss W continued to pay her agreed instalments). So I don't think the chargeback had a reasonable prospect of success in any event.

I know Miss W has referred to the supplier refusing to proceed with a way forward when she told it she was unhappy with its proposal, wanted a refund and would raise a chargeback. This process is in the supplier's terms but I accept it could be argued it might impact a chargeback under this reason code. However, overall I can't fairly say a chargeback would likely have succeeded in the circumstances where a remedy has been offered and effectively refused in favour of going through a disputes process. I think it is more likely than not the supplier would successfully defend the chargeback by showing that it offered Miss W a remedy and that she effectively refused it.

In the interest of completeness I have considered if another chargeback reason code might be relevant – such as that relating to a credit not being processed. However, considering the terms and conditions of the retailer and the nature of the product (bespoke) I don't think there was a clearly applicable other reason here.

Overall, I think Starling made a reasonable effort to recover the money through the chargeback disputes process – but for the reasons given here I don't think it would be fair to

say that its actions, on balance, caused Miss W to lose out.

I have taken into account Miss W's arguments and I do acknowledge her disappointment. But it is important to underline that I am not looking at her rights against the supplier in court under consumer law such as the Consumer Rights Act 2015. These are possibly more favourable to her than the chargeback scheme. However, considering the specific limitations of the chargeback scheme I don't think that Starling acted unfairly here. Because I don't think Starling acted unfairly I am not directing it to pay Miss W a refund.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 9 November 2023.

Mark Lancod
Ombudsman