

The complaint

Mr H complains that American Express Services Europe Limited hasn't refunded a payment he made using his credit card for items that he didn't receive.

What happened

In February 2023 Mr H ordered a number of items online from retailer which were to be delivered by courier a few days later. Mr H paid £141.50 in total for the goods using his American Express credit card.

When the box from the retailer was received, Mr H says he found that the front flap wasn't adhered as it should have been meaning the box wasn't secure. He says the items he'd ordered weren't in the box.

Mr H contacted the retailer and complained. The retailer said the items had been despatched and that they wouldn't be taking any further action. Mr H was referred to his credit card provider.

Mr H raised a chargeback dispute with American Express on the grounds he hadn't received the goods. American Express, in accordance with the scheme, raised the claim with the retailer who challenged the claim. They provided American Express with proof of delivery which included a photo of the box outside Mr H's home.

Mr H disagreed with the evidence provided by the retailer. He said the photo showed the box up against the wall, so the unsecured flap was hidden, he said the box had been damaged on delivery and the items hadn't been in the box.

American Express raised a second chargeback but the retailer also challenged this. They provided evidence that the item had been delivered, that the box had been weighed when despatched and that no damage had been recorded by the courier. American Express closed the dispute.

Mr H, then made a claim under section 75 of the Consumer Credit Act 1974 as advised by an agent of American Express. Mr H was later informed that as none of the items he'd ordered had cost £100 or more his claim was outside the scope of section 75 and this claim couldn't be accepted.

Mr H was unhappy at American Express' decision to close his chargeback claim and he complained to it. American Express didn't uphold his complaint. It said that under the chargeback scheme, it acted as a mediator between Mr H and the retailer and so had to be fair to both parties. American Express said it had looked at the evidence provided by both sides and made its decision. American Express said it hadn't made any errors when dealing with Mr H's chargeback claim.

Mr H made a complaint to this service about American Express' handling of his chargeback claim. He said that American Express hadn't conducted a fair investigation into his claim.

Our investigator didn't recommend Mr H's complaint should be upheld. She said American Express had done what she would expect it to do. It had raised two chargebacks, both of which had been defended by the retailer. Our investigator explained that isn't in this service's remit to look at the scheme operated by American Express but to look at whether it had treated Mr H's claim fairly. She said she was satisfied that American Express had acted fairly by closing the claim.

Our investigator said she appreciated it would have been frustrating for Mr H to have been wrongly advised about a section 75 claim, but this hadn't interfered with his right to raise a complaint with this service about his chargeback.

Mr H disagreed with our investigator's view. He said the retailer had simply provided the same evidence to challenge each of the chargebacks. He said that although the box was weighed on despatch it wasn't weighed by the courier on delivery and this should have been investigated further by American Express. He said he didn't think American Express' investigation had been thorough enough.

As the parties were unable to reach an agreement the complaint has been passed to me.

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 issue for me to consider here is whether American Express has handled Mr H's claim for reimbursement of the cost of the items he had ordered but not received fairly. It isn't appropriate that I substitute my decision as to the evidence that was presented by both parties for the one American Express made, I need to consider whether American Express carried out a full and proper review of the evidence it had received. It also isn't for American Express to carry out its own investigation as to what happened to the items. Its role is to review what the parties provide when making and challenging a chargeback.

Chargeback is a process that involves the card issuer disputing payments made on the card through a dispute resolution scheme operated by the companies which run the card networks, here that's American Express itself. It allows customers to ask for a transaction to be reversed if there's a problem with the goods or services they've paid for. There's no automatic right to a chargeback and it isn't a guaranteed method of getting a refund.

Mr H made a claim because the goods weren't in the box he received from the retailer. He provided a photo to show that the box flap wasn't secured. A claim was raised under the 'items not received' category. As per the scheme rules, American Express raised this chargeback request with the retailer who defended it and provided evidence that the items had been delivered to Mr H's address and that there were no problems discovered on delivery. A photo of the box outside Mr H's home was presented.

Mr H argued against the evidence provided by the retailer and American Express decided that a further chargeback should be raised on the basis of goods having been damaged as it didn't consider that the retailer had addressed Mr H's evidence of the seal on the flap having been opened.

The retailer again challenged the claim. On this occasion the retailer provided the proof of delivery with the weight of the package and confirmation from the courier company that they always recorded damage to parcels and there was no such record for this box. American Express closed the claim.

I appreciate Mr H is frustrated by this decision as he says the proof of the weight of the box doesn't cover the delivery since the courier doesn't weigh a parcel when it's delivered. But I can't say that because of that American Express hasn't fully reviewed the evidence it received from both parties when reaching its decision.

Looking at American Express' actions I can see it properly opened a claim for goods not received and that this was defended by the retailer who provided evidence that the box had been correctly delivered. It then opened a second chargeback which was again refuted by the retailer with evidence. American Express, as the mediator, reviewed what was provided and found that under the rules of the chargeback scheme, the evidence provided by the retailer was sufficient to frustrate the chargeback claim. I can't reasonably say that American Express has acted unfairly in the way it has handled Mr H's chargeback claims, evidence was received from both parties and considered before a decision was reached. American Express followed the process of the chargeback scheme.

I've seen that Mr H was wrongly advised to open a section 75 claim. Section 75 only applies when certain criteria are met and here the cost of the items meant this section couldn't apply. Although this would have been frustrating for Mr H, he was advised quickly that this was the case, so he didn't lose his right to raise a complaint with this service as to American Express' handling of his chargeback claim.

So, although I appreciate this decision will disappoint Mr H, I am not upholding his complaint as I don't think that American Express has acted unfairly in its handling of his chargeback claim. I'm satisfied it followed the processes set by the scheme.

My final decision

For the reasons set out above I'm not upholding Mr H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 8 January 2024.

Jocelyn Griffith
Ombudsman