

The complaint

Mr S complains that American Express Services Europe Limited (AESEL) hasn't refunded a payment he made using his credit card.

What happened

In July 2021 Mr S purchased some furniture using his AESEL credit card costing £984.

In October 2023 Mr S contacted AESEL to say that the furniture he had purchased was faulty and the warranty provider had refused a repair or replacement.

In January 2024 AESEL issued Mr S with a final response letter ("FRL"). Under cover of this FRL AESEL said it was unable to instigate (on Mr S' behalf) a chargeback on the grounds the dispute had been raised with it more than 120 days after payment for, and the delivery of, the furniture. However, it went on to say that it would consider a Consumer Credit Act 1974 section 75 ("section 75") claim from Mr S if he wanted to raise such a claim and to outline what Mr S needed to do to do so, which included contacting its dedicated card servicing team and providing "*all pertinent documentation*".

Following receipt of AESEL's FRL Mr S referred his complaint to our service.

Mr S' complaint was considered by one of our investigators who came to the view that AESEL had done nothing wrong.

Mr S, following receipt of the investigator's view, asked for his complaint to be considered by an ombudsman at our service, as is his right.

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.

First, I would like to point out I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point, it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

There are two different ways that AESEL can assist a customer, such as Mr S, who has had issues with purchased goods. This is by raising, or giving consideration to raising, a chargeback or by considering a claim under section 75. And we would normally expect a credit card issuer, such as AESEL, to consider both options when a customer raises a payment dispute of the type raised by Mr S.

So with this in mind I've gone on to consider whether what AESEL has done to date is both fair and reasonable.

chargeback

AESEL didn't raise a chargeback on the grounds that in its view it was too late, in or after October 2023 (the date Mr S requested assistance), to do so.

Now it's my understanding that Mr S doesn't dispute AESEL's reason for not raising a chargeback on his behalf. But for the avoidance of doubt I can confirm, having had regard to the relevant chargeback rules, that I'm in agreement that a chargeback, had one been raised by AESEL, would have been unsuccessful on the grounds of time. So I'm satisfied that AESEL has done nothing wrong in this respect.

section 75

AESEL hasn't, at least yet, considered whether it might be liable to Mr S for his claimed losses under section 75. But equally I can see that under cover of its FRL dated January 2024 AESEL said it would be happy to do so if Mr S contacted its dedicated card servicing team. So I'm satisfied that AESEL has done nothing wrong in this respect.

Now I accept that Mr S has some concerns about whether a claim submitted by him against AESEL under section 75 would be successful on the grounds that there might have been no debtor-creditor-supplier agreement in place in respect of his July 2021 purchase. But until Mr S asks AESEL to consider a section 75 claim and it decides whether it is, or isn't, liable, to him for his claimed losses this isn't something I'm in a position to comment on. But I would add that although it's a decision for Mr S as to whether he would like to submit a section 75 claim, if he was to do so and this claim was declined by AESEL, Mr S would then be free, everything else being equal, to refer a new complaint to our service for investigation.

I note that Mr S says he is unhappy with how his request for assistance (and his subsequent complaint) was handled by AESEL and the quality of its written correspondence, correspondence he found to be both "*unacceptable and inflammatory*". But given when Mr S first asked AESEL for assistance, the date he first complained to AESEL, the date AESEL issued its FRL and the content of AESEL's FRL I'm not persuaded that it would be appropriate for me to make any award, in Mr S' favour, in this respect.

My final decision

My final decision is I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 22 May 2024.

Peter Cook
Ombudsman