

## **The complaint**

Mr C complains that Barclays Bank UK PLC trading as Barclaycard (“Barclays”) failed to properly pursue a chargeback and advised against pursuing a claim under section 75 Consumer Credit Act 1974. (“s.75”).

## **What happened**

In June 2023 Mr C booked an all-inclusive holiday at an overseas hotel. He booked a double room with sharing pool. This cost £1,781.82 and was paid using his Barclaycard. He was unhappy with the hotel and says that he raised his concerns with the hotel while he was staying there.

On his return he contacted the hotel and he says he received an email from the hotel offering a full refund, but this was not paid. The hotel later said that this email was not genuine. He contacted Barclays and made the following claims:

- Hotel not as described.
- Booked room not provided.
- All-inclusive service not as described.
- Table service not included.
- Raw food which resulted in suspected food poisoning.

Barclays made a chargeback which was challenged by the hotel. It said that Mr C was present at the time of the transaction and had made no complaint. It also explained why it believed the disputed email was not genuine. Barclays asked Mr C for the full email trail between him and the hotel so it could pursue the chargeback further. He said that he no longer held this. Barclays submitted a pre – arbitration and this was declined.

Mr C made a s.75 claim and Barclays did not consider he had provided sufficient evidence to show either misrepresentation or a breach of contract. Mr C complained and this was rejected by Barclays. He brought a complaint to this service where it was considered by one of our investigators. She didn’t consider Barclays had done anything wrong in its handling of the chargeback.

With regard to the s. 75 claim she said that the failure of the hotel to uphold the alleged offer did not fall within the terms of s.75. Apart from the matter of the undercooked food she did not think there was persuasive evidence to uphold Mr C’s claim. She noted the photograph of a dish with undercooked chicken and given he had paid for food as part of the package she thought a refund of £50 would be fair.

Mr C did not agree and sent in further details which our investigator shared with the bank, but it did not change its position. Our investigator also reviewed the complaint again and her view remained unchanged. As such the matter has been referred to an ombudsman.

## **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.

Having done so I do not consider I can uphold Mr C's complaint in full. I will explain why.

There are two routes by which Mr C could recover his money, either by a chargeback or by a claim under s.75.

### **Chargeback**

As our investigator noted, chargebacks are subject to the rules set out by the relevant card scheme whose logo appears on the card. The card schemes are not within the jurisdiction of the Financial Ombudsman Service and we are unable to require them to run their chargeback schemes in a particular way. However, we can consider whether a card issuer has applied the rules correctly and conducted the chargeback process in a competent manner. I would add that Barclays is not obliged to make a chargeback as this is a voluntary procedure, but I would have expected it to do so.

It took the information Mr C had provided and made the chargeback. This was challenged by the hotel. Barclays sought further information and took the next step of pre-arbitration. This did not result in a positive response and so Barclays decided that there were insufficient grounds to take it to arbitration.

Barclays does not decide the outcome of a chargeback, it merely acts on behalf of the consumer and if it is rejected there is nothing it can do. It could have taken the claim to arbitration and ask Mastercard to decide the matter, but it concluded the evidence Mr C had provided was not strong enough. I consider that was a reasonable conclusion for Barclays to have reached. I think it would have been very unlikely that any appeal would have been upheld.

### **Section 75**

S. 75 of the CCA gives a legal right for the account holder (the "debtor") to claim against their credit card issuer in respect of breaches of contract or misrepresentations by a supplier of goods or services, so long as certain conditions have been met. It is not disputed that the required conditions have been met.

In his complaint to this service Mr C says he was advised not to make a claim under s.75, but I have seen no evidence of this and I note Barclays did consider his claim.

In essence Mr C's claims are that the hotel was misrepresented, but there are elements which fall under breach of contract. I appreciate Mr C believes he has supplied detailed evidence, but much of his claims are based on assertions and references to various pieces of consumer law and court decisions. Mr C is seeking a substantial sum from Barclays and it is only reasonable that he detail any misrepresentations or breaches of contract and provide supporting evidence.

I have not seen any photographs of the room Mr C was given and so I cannot say that it was not as he had booked. Nor have I seen any written communication with the hotel regarding the room or any of his other complaints. I have seen nothing that indicates he was guaranteed to have a refurbished room.

In his correspondence with this service he has mentioned no free mini bar, no turn down

service, no hot water at certain times and the TV didn't work. Again, other than his assertion I have not seen any additional evidence to support his claims. Without some supporting evidence I do not think it was unreasonable for Barclays to reject his claim. He has suggested that a lack of table service was also a misrepresentation. Having looked at the hotel's website I can see no basis for this assertion.

More recently he has sent this service a photograph of the ceiling of a room at the hotel which appears to show staining on a panel. He says this was one of the non-refurbished rooms offered by the hotel. From the wording he has used I have taken it to mean that he did not accept this room and if that is the case it would appear that his issue was addressed by the hotel.

The only clear evidence I have seen is a photo of a piece of undercooked chicken and I presume Mr C complained to the restaurant staff at the time, but he has not said that this is what he did. He has also suggested the food was of poor quality and so he ate elsewhere. Again, I have seen no evidence to support Mr C's assertions. For example he could have provided evidence of payments to restaurants to support his claim. Overall, I do not find Mr C's claims persuasive. However, I do not consider I need overturn our investigator's recommendation that Barclays pay Mr C £50 for the piece of undercooked chicken.

### **Putting things right**

Barclays should pay Mr C £50 compensation plus 8% simple annual interest from the date the claim was declined until payment.

### **My final decision**

My final decision is that I uphold this complaint in respect of one element and I direct Barclays Bank UK PLC trading as Barclaycard to compensate Mr C as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 25 March 2025.

Ivor Graham  
**Ombudsman**