

The complaint

Mr B complains that N26 Bank GmbH (N26) blocked and closed his account, without giving him notice and only returned part of the money he had in his account.

background

On 17 September 2019, N26 blocked and closed Mr B's account, without telling him why and without giving him advance notice. N26 carried out a review, then released £210 to Mr B on 16 October 2019. Mr B complained, saying his account balance was around £1,300.

N26 declined Mr B's request, so he brought his complaint to our service. Mr B also said N26 didn't respond to his emails when he tried to contact it about his account. To put things right, he wanted N26 to return the full balance of his account.

Our investigator said N26 was entitled to block and close Mr B's account and that, while its responses weren't very prompt, it was replying to his messages.

But our investigator did say N26 should've returned a further £675.44 (being the remaining account balance) to Mr B. She explained that N26 had initially returned the money to a third party bank, following an indemnity request for return of the funds. But she felt it should have applied "Clayton's rule" to determine the order in which account funds were distributed.

Had it done so, it would have sent the money to Mr B as the remaining balance was Mr B's money, and the money the indemnity had been raised to recover, had already left Mr B's account.

N26 didn't accept our investigator's opinion. It said it wasn't appropriate to apply Clayton's rule in the circumstances of this particular case. So it asked for an ombudsman to consider the matter afresh.

my findings

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've reached the same conclusion as that of our investigator. I'll explain why.

account block

I'm satisfied N26 acted in line with its legal and regulatory obligations when it blocked and reviewed Mr B's account. And that it was entitled to review his account under the account terms and conditions.

N26 has given me a timeline of events that took place during the block. I'm satisfied there were no unreasonable delays while N26 carried out its review of Mr B's account. While there were some short delays in responding to Mr B's messages, they weren't significant and I'm satisfied N26 was communicating with Mr B.

Having looked at the evidence, I can see no basis on which I might make an award in this regard against N26, given I don't think it failed to properly follow its own procedures when it blocked and reviewed Mr B's account.

account closure

A bank is entitled to close an account with a customer just as a customer may close an account with a bank. But before a bank closes an account, it must do so in a way which complies with the terms and conditions of the account.

The terms and conditions of the account – which both N26 and Mr B had to comply with – say that it could close the account immediately and without notice, under certain circumstances. Having considered the evidence I've been provided, I'm satisfied that N26 acted in accordance with its terms and conditions when it closed Mr B's account.

Returning funds

N26 told us that it received a request from a third party bank to return £675.44 on 31 August 2019. And that it replied to the third party bank, saying there were no funds in the account. On 16 September 2019, the day before it blocked the account, two credits went into Mr B's account, leaving a balance in excess of £675.44. So N26 contacted the third party bank to say it was able to comply with the indemnity request after all.

Our investigator felt that Clayton's rule should have been applied here. Clayton's Rule, commonly known as the first in first out rule, says that each withdrawal is presumed to be a return of all or part of the oldest deposit. The result is that the oldest deposit is withdrawn first, or the oldest debt is paid first.

So, in this case, our investigator is saying that the money requested by the third party bank had already left Mr B's account (i.e. Mr B had withdrawn the money himself), and so could not be returned to the third party bank.

I'm grateful to N26 for providing me with a detailed response on the matter. Its input has helped me to think carefully about what should happen in Mr B's case. In short, N26 says that Clayton's rule doesn't always have to be followed, and it has set out its reasons why it should not be followed in this case.

I agree it might not always be appropriate for Clayton's rule to apply, and that there will be some scenarios whereby Clayton's rule would result in an outcome that is plainly unjust.

But, having thought about all the information both parties have provided me with, I'm not persuaded that would be the case here. So I agree with our investigator that N26 should have applied Clayton's rule. And that it should return the £675.44 to Mr B.

My final decision

My final decision is that I uphold Mr B's complaint. To put things right, N26 Bank GmbH should pay Mr B £675.44.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 28 July 2020.

Alex Brooke-Smith
Ombudsman