

## The complaint

Ms C complained because Starling Bank Limited refused to refund her for a cash machine withdrawal, when she said the machine didn't dispense her money.

## What happened

On 1 March 2021, Ms C used a cash machine abroad. She initially tried to withdraw €400. This was declined, and Ms C realised this was more than her daily limit. So she tried again for €300. An error message appeared on the screen for a few seconds, and her card was exited, without providing either cash or a receipt. Ms C tried again several more times, with the same result. The machine whirred, but didn't dispense any money, and exited Ms C's card.

Ms C went straight back to her hotel and rang Starling. She explained what had happened, and Starling said that €300 was shown as a pending withdrawal on her account. Starling told Ms C to wait five days, and the transaction would be reversed. If it wasn't, she should ring again and Starling would investigate.

The money was debited from Ms C's account, so she rang again on 8 March to complain. Starling raised a chargeback on 12 March, issuing Ms C with a temporary refund in line with normal practice.

But on 11 April Starling notified Ms C that the chargeback had been disputed by the other side. The cash machine operator had said the cash had been dispensed. Starling re-debited the disputed €300, and told Ms C that if she wanted to continue her dispute, she'd have to contact the cash machine firm direct.

Ms C tried many times to contact the cash machine operator abroad. She rang on seven dates in April, getting a different person every time, with mixed and confusing information. But they told her the way to pursue it was through Starling. On 30 April, the call handler told Ms C that there was more detailed information available. It said that it had originally only sent Starling snapshots of the transaction, but it also had more detailed information available, which included the cash counting of the machine, and whether or not there was a €300 surplus on the machine that day, which could indicate that the money hadn't been dispensed. The call handler told Ms C that this could only be requested by Starling.

So Ms C asked Starling to request this. Starling refused on 4 May, saying:

*"With regret the merchant provided evidence in line within the [card] guidelines , so we're unable to dispute this matter further. The Chargeback guidelines does not give us scope to request additional information beyond that outlined. The chargeback has now has regrettably expired, and as such we are limited with how we can assist further."*

Ms C rang a number of times and was promised call backs which didn't happen. On 6 May Starling repeated its previous message that it couldn't help.

In its final response letter to Ms C's complaint, Starling said although its previous reply was correct in saying that the chargeback had expired, that wasn't why they were holding Ms C



liable. It said the reason was that the chargeback had been successfully contested because the card operator had provided the machine logs.

Ms C wasn't satisfied and complained to this service. She set out what had happened, including that the machine operator abroad had told her there was more information available. So Starling could help, but wasn't willing to, on the basis it was too late. She didn't understand this when she had phoned, texted, chatted and written to Starling often, as well as having contacted the operator abroad. Ms C said that she'd waited at the machine, and the money had just not been dispensed. And the operator was offering to help, so she didn't understand why Starling was saying it couldn't help.

Our investigator didn't uphold Ms C's complaint. She said the machine report confirmed that €300 had been taken, so she didn't think the money had been stuck in the machine. She said other card holders had used the machine before and after Ms C without any issues, which suggested there weren't any problems with the cash machine. She could understand why Ms C had asked whether the machine had balanced, but said it wasn't known whether or not there had been a surplus. And even if there had been, it might not have been Ms C's money. The investigator said that for Starling to have challenged the chargeback further, it would have had to have had evidence the money hadn't been dispensed.

Ms C didn't agree. She said it couldn't possibly be a fair outcome when she'd lost her money. She said the law might be on the side of Starling and/or the machine operator, but if it had been fully and correctly investigated, she should have been vindicated months earlier. Ms C also disagreed with the investigator's comment about machine users before and after her. She said that she'd been the person who'd attempted the subsequent withdrawals, using different cards, all of which had failed (without debiting her other accounts). So Ms C asked for an ombudsman's decision.

## **My provisional findings**

I issued a provisional decision on this complaint. Before doing so, I considered all the available evidence and arguments to decide what would be fair and reasonable in the circumstances of this complaint.

### *Regulations about disputed transactions*

There are regulations which govern disputed transactions. The relevant regulations for disputed transactions taking place in March 2021 are the Payment Services Regulations 2017. These say that the first step is for the payment service provider (here, Starling) must show the transaction was authenticated. Section 75 (1) (b) of the regulations says it's for the payment service provider to prove that the transaction:

*"was authenticated, accurately recorded, entered in the payment service provider's accounts and not affected by a technical breakdown or some other deficiency in the service provided by the payment service provider."*

A Payment Service Provider can choose how it satisfies that requirement, and here, Starling chose to use a chargeback to deal with the dispute and obtain information. But if a chosen mechanism doesn't provide enough information to satisfy the requirements of the Payment Services Regulations, a Payment Service Provider can still try other methods to help their customer and satisfy their obligations under the regulations I've mentioned here.

I looked at the information which Starling provided about the cash machine withdrawal. It was minimal, and didn't, for example, show that the machine wasn't affected by technical issues or deficiencies. Nor did it show whether or not the machine balanced, or whether there was any cash left in the machine (the "purge bin") at the end of the day. Nor did it



show sufficient transactions before or after Ms C's transaction for this to demonstrate whether others had a similar problem. So, on technical grounds, Starling failed to fulfil its responsibilities under the Payment Services Regulations.

### *Did Starling treat Ms C fairly?*

In looking at what was fair in all the circumstances of this case, I also considered Starling didn't try to help its customer as much as it could have here. After Starling received the chargeback refusal which didn't give enough information, it didn't try and help Ms C any further, telling her she'd have to contact the machine operator abroad herself.

Ms C made a lot of effort to get answers and a satisfactory outcome from the machine operator abroad – she told us she rang abroad seven times during April. I thought it was unlikely she'd have bothered to chase the machine operator abroad if she hadn't had a genuine case. And Ms C might not have had to do this, with all the frustration, inconvenience, and costs which this caused her, if Starling had made a reasonable attempt to help its customer.

Starling also gave Ms C conflicting reasons for its refusal to help. One was that the chargeback had "expired" which wouldn't make sense to a customer who'd been constantly chasing. The other was that the chargeback had been successfully defended, though as I've set out above, a chargeback wasn't enough to satisfy Starling's responsibilities under the regulations. It wasn't helpful that Starling gave two conflicting reasons.

Starling continued to be unhelpful even after Ms C reported back that the machine operator had told her that it had more information available – if only Starling were to request it. Ms C had done everything she'd been told to by Starling (even though it was the wrong advice) and had reached a dead end.

So I considered Starling didn't treat Ms C fairly. It didn't continue with the full investigation into the matters which were firmly its responsibility under the regulations, and it failed to meet the requirements under the regulations. It also expected its customer to struggle alone with a machine operator abroad, which wasn't fair and caused her frustration, inconvenience and cost. So my provisional decision was that I intended to order Starling Bank Limited to pay Ms C:

- €300 to reimburse the disputed cash withdrawal. This should be refunded at the exchange rate at which it was debited, ie £261.94; and
- £150 compensation for the frustration, costs, and inconvenience Ms C suffered as a result of the unfair way in which Starling treated her.

### **Responses to my provisional decision**

Ms C didn't have anything more to add. She said she awaited the final outcome which hopefully would see the end of the difficult experience she'd had.

Starling accepted the provisional decision in Ms C's case.

### **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 reconsidered the evidence and the responses to my provisional decision, I consider my original decision was fair and reasonable in all the circumstances of this case.

### **My final decision**

My final decision is that I uphold this complaint and I order Starling Bank Limited to pay Ms C:

- €300 to reimburse the disputed cash withdrawal. This should be refunded at the exchange rate at which it was debited, ie £261.94; and
- £150 compensation for the frustration, costs, and inconvenience Ms C suffered as a result of the unfair way in which Starling treated her.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 21 March 2022.

Belinda Knight  
**Ombudsman**