

## **The complaint**

Mr B complains that Pay Pal Europe Sarl & Cie, SCA ('PayPal') didn't help him when he accidentally sent money to the wrong person.

## **What happened**

In September 2020 Mr B went to use his PayPal account to make a payment of \$450 to a third party. Unfortunately, he entered the details incorrectly and accidentally sent the payment to someone he didn't know.

Mr B realised what had happened the same day and contacted PayPal to try to resolve things. He tried to call but due to the Covid-19 pandemic he was unable to speak to anyone. So, he filed a claim and selected the category 'unauthorised payment' as this was the best he could find. In the submission he explained that he had sent the payment to the wrong person.

PayPal declined his claim as it was clear Mr B had authorised the payment. PayPal also told him the payment was ineligible for its PayPal Buyer Protection because it was processed as a personal payment and not intended for the purchase of goods or services.

PayPal suggested Mr B contact his card issuer and ask them to do a charge back. However, Mr B said his card issuer told him only PayPal had the authority to refund the payment.

So, Mr B complained to PayPal. But it didn't uphold this complaint. Mr B remained unhappy and brought his complaint to our Service.

Our Investigator looked into things and upheld the complaint. They said PayPal was bound by the Payment Service Regulations (2017) and was required to make reasonable efforts to recover funds where the incorrect account details had been used. And they didn't think this had been done. They asked PayPal to refund Mr B the \$450.

PayPal disagreed. It said it had made reasonable efforts to recover the funds and provided further evidence in support of this. This showed it had temporarily held the funds in the recipient's PayPal account and sent a notification informing the recipient about the issue. But it said it was prevented from taking further action due to the type of payment made.

Our Investigator looked at this further evidence but didn't change their overall opinion. They said the notification PayPal had sent referred to the dispatch of merchandise and would have caused confusion, not action, on the part of the recipient. They also said PayPal hadn't engaged with the recipient to see if they'd return the money. They noted that when PayPal couldn't recover the funds it ought to have provided Mr B with the recipients details so that he could enter into negotiations or go through the courts. They also decided to award 8% simple interest on the \$450 for the time he didn't have access to the funds.

PayPal still disagreed. It said the recipient was given Mr B's details but due to data protection issues it cannot contact the recipient and provide other information or contact details from the sender.

So, the complaint has been passed to me to consider.

### **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.

Mr B clearly made an error when putting the payment through. And this wasn't PayPal's fault. But what Mr B is unhappy about is the lack of assistance he got from PayPal when he contacted it to try to fix things.

So, I've thought about what PayPal could have done and what it had a responsibility to do.

I agree with PayPal that this transaction wasn't covered by PayPal's Buyer Protection scheme.

But the Payment Services Regulations (PSR) 2017 apply and the relevant section here is section 90. These regulations refer to customers as 'payment service users' and businesses as 'payment service providers'. The section relevant in this case says:

*(2) Where the unique identifier provided by the payment service user is incorrect, the payment service provider is not liable under regulation 91 or 92 for non-execution or defective execution of the payment transaction, but the payment service provider—  
(a) must make reasonable efforts to recover the funds involved in the payment transaction;*

What this means is that PayPal isn't liable for the loss Mr B incurred due to his mistake, but it did have a responsibility to make reasonable efforts to recover the funds.

PayPal has said it did make reasonable efforts. And when it was notified of the error, I can see it temporarily held the money whilst it looked into things. This is the sort of action I'd expect it to take. But I'm not persuaded that it then took any action to actually recover the funds.

PayPal notified the recipient of a possible problem and told them not to dispatch goods (which of course didn't apply here). But it didn't ask the recipient if they'd be willing to return the money. When it realised Mr B had authorised the payment, it simply removed the block. And whilst I appreciate Mr B chose the incorrect category for the claim he raised with PayPal, he explained the problem in his submission. So, I don't think the mis-categorisation should have had any bearing on how PayPal handled his request for help.

PayPal has said it wasn't able to contact the recipient, but it has provided no evidence that it tried to or further explanation to support this. It was clearly able to temporarily hold the transaction and contact the recipient about this. So, I'm not persuaded it was unable to ask if the recipient would be willing to return the money. It might not have been able to take any further action had the recipient refused, but the question was never asked.

For all of these reasons, I don't think PayPal acted fairly here.

Where a mistake has been made, my role is to try put Mr B back into the position he would have been had errors not occurred. This issue came about because of Mr B's error – something PayPal isn't responsible for. But I think PayPal could have taken further steps to

help Mr B and had it done so the money might have been recovered – so it too has responsibility for the loss Mr B incurred. We will never know for definite what would have happened had PayPal contacted the recipient of the money. So, I need to decide what I think is most likely to have happened, on the balance of probabilities. Having thought carefully about this, I think more people than not, if contacted shortly after receiving money that wasn't theirs and that they weren't expecting, and being advised it was an incorrect payment from another customer, would return the money if asked to do so by PayPal. So, I think it's more likely than not Mr B would have got his money back. Which means I think PayPal should refund this amount in full. Mr B has also lost the use of these funds so I think PayPal should pay 8% simple interest from the day after the transaction was made (to allow time for this to have been resent) until the date it makes this payment.

I do appreciate Mr B would have also been upset and inconvenienced by all of this but given this was partially due to his initial error, I don't intend to make any further award for this.

### **My final decision**

My final decision is that I uphold this complaint. I direct Pay Pal Europe Sarl & Cie, SCA to pay Mr B \$450 and 8% simple interest on this amount from the date after Mr B made the transaction until the date it makes this payment.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 28 April 2022.

Jade Cunningham  
**Ombudsman**