

The complaint

Mr M complains PayrNet Limited (trading as Pockit) won't refund a transaction he didn't make or otherwise authorise.

What happened

The full details of this complaint as well known to both parties, so I won't repeat them in full here. Instead, I'll recap the key points:

- Mr M noticed a payment on his Pockit account on 5 November 2021 for £24.88 which he says he did not authorise. Mr M reported this transaction to Pockit on the same day.
- Pockit reviewed the matter and in its response of 18 November 2021 it explained it would not be refunding the disputed amount. Instead, it provided Mr M with details of its chargeback process.
- Mr M referred his complaint to our service. He explained that he did not authorise the transaction and that he had informed Pockit about fraudulent transactions in the past, that were declined. He says Pockit should've done more to stop this transaction.
- The investigator requested further information from Pockit, however no technical evidence has been provided.
- The investigator found in Mr M's favour explaining that there wasn't evidence to show Mr M had authorised the transaction. The disputed transaction was also completed by distance contract, so Mr M is not liable for it.
- The investigator recommended Pockit refund the disputed transaction, plus 8% simple interest. Pockit also failed to provide a refund by the next working day so it should pay £75 for its poor handling of Mr M's complaint.

Pockit has not responded to the investigator's findings. Mr M responded explaining he should be awarded a greater amount for the distress and inconvenience caused to him.

The complaint has now been referred to me – an ombudsman – for a final decision.

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 uphold Mr M's complaint for the following reasons:

- In-line with the Payment Services Regulations 2017 (PSRs), Mr M isn't liable for payments he didn't authorise unless he failed with gross negligence, or intent, to comply with the terms of the account, or keep his personalised security details safe.
- Under sections 77(4)(d) of the PSRs, except where a payer has acted fraudulently, the payer isn't liable for any losses incurred in respect of an unauthorised payment transaction where the payment instrument has been used in connection with a distance contract. A distance contract means a contract concluded between a trader

and a consumer under an organised distance sales or service-provision scheme without the simultaneous physical presence of the trader and the consumer subject to some exclusions (as per regulation 5 of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013. There isn't any provision within the PSRs which holds Mr M liable for the transaction if it was unauthorised, even if he acted with gross negligence or intent.

- The disputed transaction was an on-line payment. As the payment instrument was used in connection with a distance contract, gross negligence (or a failure with intent) isn't a factor for my consideration. Under the PSRs, Pockit can only hold Mr M liable for it, if he either authorised the transaction or he acted fraudulently. There is no persuasive evidence, nor has Pockit sought to argue, that he acted fraudulently. Therefore, my key consideration is in relation to whether Mr M authorised the transaction.
- The investigator requested technical evidence from Pockit, however it hasn't responded or provided any technical evidence to demonstrate Mr M authorised the payment. In the absence of any such evidence, Pockit cannot hold him liable for the transaction.
- Under section 76(1) and (2) of the PSRs, a payment service provider must refund the amount of an unauthorised transaction and that should be done as soon as is practicable. Pockit's account terms and conditions also state provided the account holder informs them within a reasonable timeframe of a disputed transaction, it will refund the disputed amount by the end of the next business day. Pockit didn't do this. I therefore uphold this complaint.
- Mr M has been caused inconvenience by Pockit not refunding the transaction as soon as it ought to – despite Mr M notifying it as soon as he became aware of it. Mr M has therefore been without those funds for longer than he ought to have been. I can also see Mr M has sent numerous emails and chased Pockit for information in relation to the transaction and his new card. So, whilst I agree with the investigator that compensation is fair in Mr M's case, I think £150 is a more accurate reflection of the impact the matter has had on Mr M.

Putting things right

For the reasons given, my final decision is that I uphold Mr M's complaint. I require PayrNet Limited to:

- Reimburse £24.98 to Mr M's account; and
- Add 8% simple interest to the above sum, from the date Mr M initially disputed the transaction to the date of settlement; and
- Pay Mr M £150 compensation for the inconvenience this matter has caused.

My final decision

I uphold this complaint and require PayrNet Limited to put things right by doing what I've set out above

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 19 October 2022.

Chandni Green
Ombudsman