

The complaint

Miss J complains that PayrNet Limited (acting through its agent Pockit) has refused to refund unauthorised transactions made on her prepaid card.

Miss J has been assisted in bringing her complaint by her employer. Some of the interactions with Pockit were also conducted by her employer. However, for ease of reading, I'll refer to Miss J throughout.

What happened

Miss J has a prepaid card from Pockit on which her employer deposits funds for her business use.

On 29 April 2021, Miss J contacted Pockit to say that a number of unauthorised transactions had been debited to her prepaid card and asked for the card to be blocked. Pockit requested details of the transactions. In May, Miss J provided this information, explaining that over a four-day period in April, her card had been used for 17 fraudulent transactions, totalling £1,909.13. She asked how the money could be refunded.

Miss J then heard nothing back despite chasing Pockit several times by email, online chat, letter and phone.

In late May, Pockit asked Miss J for evidence to verify her identity. In July 2021, having received no further response from Pockit, she brought the matter to our service.

We contacted Pockit on Miss J's behalf. In November 2021, Pockit responded to apologise for the delay, advised that the matter had been escalated and offered Miss J £75 for the distress and inconvenience caused. Miss J didn't accept this offer.

Our Investigator looked into things and found that Pockit had provided no evidence to show that Miss J had authorised the transactions. He said that, therefore, under the Payment Service Regulations 2017, Pockit should refund the value of the transactions to Miss J, with interest. He also said Pockit should pay Miss J £200 compensation for the distress and inconvenience caused by their failure to address matters.

Pockit didn't respond to accept this view, so the matter has been passed to me to decide.

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 looked into Miss J's account, it appears that five of the unauthorised transactions, totalling £123.13, were subsequently refunded to her account. Therefore, the amount in dispute is £1,786.

Under the Payment Services Regulations 2017 (PSRs), Miss J isn't liable for payments she didn't authorise unless she failed with gross negligence, or intent, to comply with the terms of the account, or keep her 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 is 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).

From the account statements, it appears that the disputed transactions were all conducted in connection with a distance contract. For this reason, gross negligence (or a failure with intent) isn't a factor for my consideration.

Therefore, under the PSRs, Pockit can only hold Miss J liable for the disputed transactions if she either authorised the transactions or acted fraudulently. There is no evidence, nor has Pockit sought to argue, that she acted fraudulently. Therefore, my key consideration is whether Miss J authorised the transactions.

Our investigator requested evidence from Pockit about this. However, Pockit hasn't responded with any evidence to demonstrate that Miss J authorised the transactions.

The only response Pockit has provided is that, in November 2021, it asked Miss J to complete a chargeback form. However, as Miss J wasn't looking to raise a chargeback, she didn't complete this form. Having reviewed the form, it does include the opportunity to specify transactions which are unauthorised. However, I can understand why Miss J didn't think the form was appropriate to her circumstances and, despite her many communications to Pockit, at no point did Pockit explain why the form applied to her situation. Moreover, Pockit had already requested a list of the unauthorised transactions, which Miss J had provided.

In the absence of any evidence to demonstrate that Miss J authorised the disputed transactions, I don't believe Pockit can hold Miss J liable for them.

Under section 76(1) and (2) of the PSRs, a payment service provider must refund the amount of an unauthorised transaction, and do so as soon as practicable. The terms and conditions of Pockit's prepaid card also state that, if the customer is due a refund for an unauthorised transaction, Pockit will pay this by no later than the end of the next business day.

For the reasons set out above, I believe Pockit should refund Miss J for the loss resulting from the unauthorised use of her card. Given Miss J has been without these funds, I believe Pockit should also pay Miss J 8% simple interest on the amount refunded from the day after it was first notified of the unauthorised transactions to the date of payment.

By not refunding the transactions as it ought to have done, Pockit has also caused Miss J some distress and inconvenience. I can see Miss J tried on numerous occasions to contact Pockit to address matters, but with little response. I think £200 is reasonable compensation for this.

My final decision

I uphold this complaint. I require PayrNet Limited to pay Miss J:

- £1,786, plus 8% simple interest per annum on this amount from 30 April 2021 to the date of payment; and
- £200 compensation for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J to accept or reject my decision before 18 January 2023.

Andy Wright
Ombudsman