

The complaint

Mrs D complains that Clydesdale Bank Plc trading as Virgin Money is holding her liable to repay money it debited to her credit card account after leading her to believe a chargeback claim had been resolved in her favour.

What happened

Mrs D had a dispute with a merchant "M" over a holiday cancellation. She'd originally paid M £4,715.27 using her Virgin Money credit card. Mrs D sought assistance from Virgin Money, who instigated a chargeback claim on her behalf. Virgin Money provided what it termed a temporary credit to Mrs D's account pending the outcome of the claim. It didn't give a timescale for resolution.

A week or so later, Mrs D contacted Virgin Money to ask about next steps. She asked Virgin Money if it would contact her once the dispute was resolved. Virgin Money responded a few days later. It told Mrs D the dispute had been resolved in her favour, leaving a credit balance on her account. Mrs D asked to withdraw the credit balance and proceeded to spend it.

However, the following month Virgin Money received M's response to the chargeback claim. As a result of M's arguments, Virgin Money decided the chargeback claim was unsuccessful, and told her it had reversed the previous credit. That left Mrs D owing the money again.

Mrs D believes Virgin Money has treated her unfairly, and that seeking repayment from her has put her into financial difficulty. To resolve her complaint Mrs D wants Virgin Money to treat her account as if the chargeback reversal hadn't been made. Virgin Money has acknowledged it gave Mrs D incorrect information about the chargeback outcome. It paid Mrs D £100 compensation and offered waive interest on her balance for 12 months.

Our investigator didn't think Virgin Money's proposal went far enough. He said it had been reasonable for Mrs D to believe what the bank told her about the claim outcome, and that she had changed her financial position in reliance on that information. As such, the investigator concluded it would be unfair for Virgin Money to be entitled to seek repayment from her. He recommended that Virgin Money recredit the disputed £4,715.27 and remove any interest applied in relation to this amount.

Mrs D said she was happy to accept the recommendation, though she pointed out that she had since repaid the balance and Virgin Money had declined to renew her card. Virgin Money hasn't responded to the investigator's assessment, despite our efforts to chase up a reply. Consequently, the matter has been passed to me for review and determination.

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.

It's accepted by all parties that Virgin Money told Mrs D that her chargeback claim had been resolved. I see no reason why Mrs D would not have genuinely believed this to be the case,

or that she had any cause not to place reliance on what the bank told her. It is, after all, the expert in this situation. I find that she withdrew – and importantly, spent – the money in good faith. As such, when Virgin Money sought to change what it had told her and redebit what was a significant sum to her account, I can understand that she was alarmed and caused a good deal of distress.

I can't disregard the fact that M submitted a defence to the chargeback claim that seems to have been made within the timescale afforded under the card scheme rules. Virgin Money's original statement that the claim had been resolved appears to have been wrong. That raises the possibility that Mrs D would be unjustly enriched were the temporary credit not reversed.

The starting point in law is that Virgin Money would be entitled to seek restitution from Mrs D for the money she was credited. But the law also recognises that Mrs D would be able to defend such a claim on the basis that she had changed her position in reliance on her entitlement to treat the funds as hers. I haven't seen anything to suggest Mrs D would have incurred the expenditure she did irrespective of receiving the payment from Virgin Money. And as I've already noted, she appears to have acted in good faith throughout, holding the genuine belief that the dispute was resolved in her favour.

Taking all of this into account, and in the absence of any submissions from Virgin Money in response to our initial assessment, I find that it was not fair for the bank to seek repayment of the sum in question from Mrs D.

Putting things right

Virgin Money should pay Mrs D £4,715.27 immediately, together with interest on that amount, calculated at 8% simple annually, to run from the date Mrs D paid off that part of her balance. If Virgin Money levied any interest and/or charges in connection with the sum from the point of reversal (which I understand to be 23 September 2020), these should also be refunded to Mrs D, again with interest at the above rate. Virgin Money should also ensure that no adverse payment information has been recorded on Mrs D's credit file in relation to the disputed amount.

The bank has already paid Mrs D £100 compensation in recognition of the distress its actions caused her. I make no further proposal in relation to this aspect of the complaint. Although I accept the incident has caused Mrs D a lot of worry and upset, I consider the fact that she will not have to repay the sum in question to be a relevant factor in my decision not to increase this compensation.

My final decision

For the reasons I've explained here, my final decision is that I uphold this complaint. To settle it, Clydesdale Bank Plc trading as Virgin Money should, within 28 days of receiving Mrs D's acceptance of my decision, take the steps I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D to accept or reject my decision before 13 January 2023.

Niall Taylor
Ombudsman