

The complaint

S, a limited company, complains that Starling Bank Limited didn't do enough to recover a payment it had made for an item it discovered wasn't genuine.

What happened

S bought an item online for £149.99. When it received this, it says it wasn't genuine. It raised this with Starling Bank and provided the evidence it asked for. A chargeback was raised. S says that it didn't receive a request by email saying that the seller had contested this. And that even if it had it had already provided all the evidence. S wants the payment to be refunded.

Starling Bank said it wouldn't be refunding the money. It had submitted the chargeback. But this had been contested. And it had contacted S on 16 March 2022 and then 23 March 2022 to ask it to review the merchant's evidence and provide 'rebuttal points'. These messages and the evidence were sent by email and there were also in app messages. The deadline for a response was 30 March 2022 in order to continue the dispute and *"this was due to timeframes set out under MasterCard's guidelines"*. Starling Bank explained that these set out that the evidence must be reviewed by the cardholder and rebuttal points provided. So, it said it couldn't do anything more.

Our investigator recommended that the complaint be upheld. He said that he thought that Starling Bank had enough information to continue the dispute without any further involvement from S. The merchant alleged that it hadn't had any contact from S and that the items hadn't been returned for a refund. But S had shown it had tried to obtain a refund through the online portal of the merchant and had provided an email of its attempts to contact the merchant by email. There was no requirement to return counterfeit goods under MasterCard rules for a chargeback to continue. And S had told Starling Bank that it had the goods when it raised the dispute and had tried to get a refund. S had provided evidence that the goods weren't genuine. So, he thought Starling Bank had deprived S of the opportunity to obtain a successful chargeback. He said that the refund should be applied back from the date that chargeback was denied. And that S be paid £50 in compensation.

Starling Bank didn't agree and wanted the complaint to be reviewed. It said that it didn't agree with our investigator's interpretation of what was required to continue with the chargeback. And it said that S hadn't responded and so it couldn't pursue this further.

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.

I asked through our investigator for some more information from Starling Bank and in light of this if it wanted to reconsider its position. In response it said that the second presentment by the merchant was on 4 March 2022. And that the 45-day time period for rebuttal ended on

18 April 2022. It confirmed as a result that the deadline of 30 March 2022 for C to respond was an internal one. It also confirmed that it had submitted all S' evidence initially. And it said that the response of the merchant in light of what seemed to be compelling evidence was outside its control. It referred to the messages sent to S which said that it needed updated comments. The merchant's comments weren't rebutted in a tangible way and S could have asked about the requirement if it wasn't clear. No further evidence was required other than S' written rebuttal and it referred to the MasterCard guidelines stating that this had to be dated after the merchant's comments. So, it stood by its position on the complaint.

I note that S didn't respond to the messages of 16 and 23 March 2022 I'd seen. When Starling Bank sent its business file to this service it said that due to a limitation in its customer management system only one email address could be linked to the account. So, it didn't seem that the director who was dealing with this issue for S was receiving emails. In any event he did see the message of 30 March 2022 saying that the temporary credit would be refunded.

I appreciate that the chargeback process is determined by the relevant scheme rules and that Starling Bank doesn't make a decision on the chargeback. It does seem here that there was the prospect of a successful rebuttal and I need to think about whether that should have happened.

There were 45 days for this process. It is unclear to me what Starling Bank did between the date of the representment on 4 March 2022 and its first contact with S. And I say that in particular because its message of 16 March 2022 seemed to be a standard one which made no reference to the particular circumstances of this case. Or in my view linked the requirement to the specific card scheme rules as clearly as it had later done in the final response letter. It set a deadline for response of 30 March 2022. While it would need to have time to deal with any comments from S, as it wasn't expecting new evidence it had it seems 18 calendar days to send S' comments – noting that as it has explained these had to come from S and it couldn't respond on its behalf.

A director of S did write to Starling Bank on 31 March 2022 saying that *"I sent the evidence in months ago. Here it is again."* On 1 April 2022 Starling Bank responded and said that *"This is unfortunately not what we were asking for"* and *"We still did not hear back in time and we are now past the deadline and as such will need to allow this transaction to stand."* It said that the account would be re-debited and so the temporary credit reversed on 14 April 2022. That led to a complaint being raised.

I'm looking at what is fair and reasonable. S had provided everything Starling Bank asked for before the chargeback and had gone to some lengths to do so even getting expert evidence that the item wasn't genuine. I find it likely that S didn't see the messages until after the deadline. It has provided its explanation for that. And that it didn't understand the requirement and how that linked to MasterCard rules. It's clear to me that there were strong grounds for rebuttal and that on 31 March 2022 S wanted to rebut what the merchant had said. I don't accept that there fairly wasn't an opportunity then for this to be quickly rectified with Starling Bank's help. Rather than S being told that the payment would be re-debited on 14 April 2022 and so before the scheme deadline had expired.

It is a matter for Starling Bank to set its processes, but I can fairly look at how these were applied in the circumstances of this case and taking into account as it wants me to the MasterCard guidelines. In coming to my decision, I note the period Starling Bank had both before it had contacted S and after its internal deadline. And as it has described the very limited basis for rebuttal with no further evidence to be reviewed or sent through. So as I indicated in my request for information to Starling Bank I think fairly that it as the expert here and understanding what S had said about not responding earlier should reasonably have

been able to allow S to respond even after its internal deadline. Had that happened and the evidence been properly looked at by the card issuer then I think it more likely than not that the chargeback would have succeeded. So, I will be requiring a refund and compensation for S in the way our investigator has recommended as I think that's the fair resolution here.

My final decision

My decision is that I uphold this complaint and I require Starling Bank Limited to:

- 1) Refund S with the payment of £149.99 backdated to the date that the chargeback was denied, and the amount had been re-debited to the account.
- 2) Pay S £50.

Under the rules of the Financial Ombudsman Service, I'm required to ask S to accept or reject my decision before 21 February 2023.

Michael Crewe
Ombudsman