

The complaint

A partnership, which I'll refer to as A, complains that PayrNet Limited won't refund payments it didn't make.

Miss F, who is a partner of A, brings the complaint on A's behalf.

ANNA Money, who A's account is with, is an agent for PayrNet. For ease, I'll mainly refer to ANNA throughout the decision, although PayrNet are ultimately responsible for this complaint.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. The facts are not in dispute, so I'll focus on giving the reasons for my 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've reached the same outcome as our investigator for these reasons:

- The starting position under the Payment Services Regulations 2017 is that A isn't liable for payments it didn't authorise.
- ANNA hasn't refuted our investigator's opinion that the disputed payments were unauthorised. To be clear, I agree. That's because I'm persuaded it was fraudsters, and not A, that consented to these payments when they used the merchant's website with A's card details and entered in a one time passcode (OTP) they tricked Miss F into sharing.
- I've gone on to consider whether, in line with the PSRs, ANNA has shown there's a reason A shouldn't be refunded. While it's not explicitly stated a reason, it's pointed out how Miss F shared OTPs with fraudsters. So I think it's relevant to consider whether she failed with gross negligence to comply with the terms of the account and keep A's personalised security details safe – something which, if proven, would mean A wouldn't be entitled to a refund under the PSRs.
- To assess this, I've reflected on the circumstances on the scam. Miss F explained she received a call from someone who claimed to be from ANNA's fraud department, who told her someone had made fraudulent transactions from A's account. They instructed her to share OTPs which she'd receive by text to verify who she was and to return each payment to A's account.
- I accept these messages referred to a purchase and told her not to share the OTPs. But I'm mindful Miss F was acting in the heat of the moment, concerned for the safety of A's account. So when these messages came through from ANNA, as she'd been

told to expect, I can see how Miss F felt comfortable sharing the information they asked for. And given the OTPs appeared first in the message, I can understand how she did that without reading the rest of the message.

- Taking this into account, I've not been persuaded that she acted with *very significant* carelessness to conclude that she failed with *gross* negligence.
- It follows that, in line with the PSRs, I don't consider A can be fairly held liable for these unauthorised payments and ANNA needs to put things right – by refunding A's losses from the payments alongside 8% simple interest per year to compensate it for the time it's been out of pocket.

My final decision

For the reasons I've explained, I uphold A's complaint. PayrNet Limited must:

- Pay A the total of the unauthorised payments less any amount recovered or already refunded.
- Pay 8% simple interest per year on this amount, from the date of the unauthorised payments to the date of settlement (less any tax lawfully deductible).

Under the rules of the Financial Ombudsman Service, I'm required to ask A to accept or reject my decision before 19 October 2023.

Emma Szkolar
Ombudsman