

The complaint

S, a limited company, complains that PrePay Technologies Limited, unfairly took money from their account and then closed it. They'd like the money returned to them.

What happened

S had an account with Tide, with a pre-paid card and e-money account provided by PrePay Technologies. As the overall agreement was with Tide, and for ease of reading, I'll refer to Tide in this decision. S is represented by the director of the company, Ms T.

In early August 2021 Ms T fell victim to fraud on her personal account. As part of this fraud £2,000 was transferred to S' account without her knowledge, and then she was tricked in to transferring it onwards. Ms T's bank contacted Tide, who then placed a stop on any transactions on S' account. In September 2021 Tide wrote to S to say they would be closing the account. The remaining funds in the account (£865.79) were sent to Ms T's bank.

S complained, but Tide didn't think they'd done anything wrong. They said they'd carried out a review and decided to end the relationship and weren't at liberty to divulge any further information. They were satisfied with the support provided to S.

Unhappy with this S referred the complaint to our service. One of our investigators looked at it and thought Tide had been unfair. They said there was no term in the Tide terms and conditions that allowed them to deduct the funds from S' account. They were satisfied Ms T was the victim of a scam, and the funds in the account were genuinely S'. They suggested Tide refund the returned funds, plus 8% simple interest from the date of payment to the date of return. They also suggested Tide pay S £150 compensation for the inconvenience caused.

S accepted this as an outcome, but Tide disagreed. They said they had received an indemnity, so that is why they returned the funds. As they asked for an ombudsman to review the complaint, it 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.

At the heart of this matter is that S' account was used to pass fraudulent funds through it. But Tide haven't grasped or engaged here with the fact that the victim is the director of S. There's no suggestion here that Ms T has taken money from anyone else then passed it on through S' accounts. It was her own personal funds that were taken. It's clear that Tide haven't investigated what happened adequately.

Best industry practice at the time would be for a payment firm who has received fraudulent funds to contact their consumer, to establish if they had any credible claim to the funds sent. In this case even a cursory investigation would have shown that the director of S and the victim of the fraud were the same person. I've seen nothing to suggest Tide asked any

relevant questions about the funds to S or Ms T, before taking the decision to close the account and return the remaining funds. I'm satisfied S would have a credible claim to the ownership of the funds here.

The Tide terms list the situation in which payments may not be credited to the Tide account – or sent back to sender. The only relevant one in this list is when Tide “*suspect fraudulent activity on the TIDE GBP E-Money Account*”. But in this case, it's clear that the sender and the Tide account holder were the same individual, albeit in different capacities. The loss to fraud is the point where Ms T was tricked in to transferring the money onwards. So, I'm not persuaded this term applies here.

The terms also state that Tide can take back funds paid in by “mistake”. But I don't consider this applies here, as the funds were paid in deliberately by the fraudster who had access to Ms T's account.

Tide have argued they received an indemnity from Ms T's bank asking for the funds to be returned. But indemnities don't create specific obligations on financial businesses – they are agreements between the parties. Tide would still be under an obligation to treat S fairly and reasonably. In this case the facts of the case would make it clear that Ms T's bank would be liable for refunding the unauthorised transactions – and they have done so. Returning the funds that remained in S' account would provide no benefit to the victim of the fraud, and instead just deprive S of funds they held with Tide legitimately.

I've reviewed the statements for Ms T's personal account, and I'm satisfied the money Tide sent back wasn't applied to her personal accounts. So, I'm satisfied she cannot just return it to S' accounts, and that it represents a loss to S. Had Tide carried out a reasonable level of investigation into the transactions, I think it more likely than not they would have realised that returning the funds was not appropriate. I'm satisfied they have treated S unreasonably.

It's reasonable therefore for Tide to return the funds to S. I see it as reasonable to include 8% simple interest for the time without the funds, to represent the loss of use of these funds for this period.

Tide can block and review the accounts of their customers – there is provision for this in the terms of the account. And they can also close accounts so long as they give the required notice. They're not under any specific obligation to disclose the details for any review or closure and have declined to do so here. In S' case the account was restricted and then closed without any further transactions being allowed – so in effect an immediate closure. There are only limited circumstances that the terms allow for this, and I'm not persuaded any of these apply in the circumstances of this complaint.

I can't say for certain that if Tide had carried out a reasonable level of investigation in to how the disputed transactions ended up going through S' account, that they would have made a different decision in terms of the closure. But what I can say is that I've seen nothing to justify the immediate closure of the account. So, again I'm satisfied they've unduly inconvenienced S in deciding to close the account without further notice. As such I think it's right that Tide compensate S. Having considered everything I'm satisfied that £150 is a reasonable amount.

My final decision

My final decision is that PrePay Technologies Limited must:

- Refund S the £865.79 that was in the account when it was blocked
- Add 8% simple interest per annum to this amount from the date of the block to the

- date the funds are returned
- Pay S £150 for the inconvenience and disruption caused by closing the account without notice

If PrePay Technologies Limited considers that it's required by HMRC to deduct tax on the interest award above, they should provide S with a certificate showing how much is deducted should S ask for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask S to accept or reject my decision before 20 November 2023.

Thom Bennett
Ombudsman