

The complaint

Mr C complains that Starling Bank Limited (“Starling”) failed to deal with his request for a refund after making a number of transactions.

What happened

Mr C explained that he registered with an online gambling website I’ll refer to as L. He transferred funds into his Starling account and then spent them on the site. He then saw transactions with two different merchants he didn’t recognise for payments in a different currency to those he believed he’d made with L.

Mr C raised the issue with Starling and asked them to look into the situation. Mr C told Starling he’d switched on the gambling block in his Starling app, but this hadn’t stopped these transactions. He wanted Starling to refund those payments and contact the merchants.

Starling initially thought Mr C was denying he authorised these transactions, but Mr C later said he had made them, but didn’t recognise the amounts/the currency or the merchants names that appeared on his statement. Starling didn’t think they had any rights to use the Chargeback system to obtain refunds. They explained to Mr C that gambling transactions were subject to limited Chargeback rights and the circumstances of Mr C’s situation didn’t meet those requirements.

It was accepted that the merchant codes used by these businesses who took his payments weren’t ones typically used for gambling. Mr C argued that he hadn’t received the service he paid for and Starling should have made an attempt to obtain a Chargeback refund.

Starling later explained that the different codes used by these merchants bypassed their gambling block, but they couldn’t ask for a refund and as he authorised the payments himself.

Mr C complained to Starling and in their final response to him, said that whilst the merchants had used different codes to describe their business (within the payments system), they were a gambling site and Chargeback rights weren’t available for Mr C’s issue.

Mr C was left unhappy with how Starling had handled his situation and brought his complaint to the Financial Ombudsman Service for an independent review. An investigator was assigned to look into the situation and asked both parties for information about the complaint.

Mr C was able to say that:

- He believed the website (L) was fraudulent.
- He didn’t recognise the transaction amounts or the currency of these payments.

- He didn't recognise the merchant names.
- Starling should have been alert to the unusual nature of the payments.
- The casino (L) was bypassing various regulations by accepting his account and funds.
- He'd contacted L but only received limited responses from them.
- He was fully conscious of his decision to make payments to them and for what purpose (gambling).
- L failed to deliver the service they advertised.
- The different (non-gambling) codes meant that Starling could have used the Chargeback system.

Starling provided details of messages they exchanged with Mr C and evidence of the payments.

After considering the evidence provided by the parties, Mr C's complaint wasn't upheld. The investigator commented that:

- Mr C authorised the payments himself.
- The gambling blocks were bypassed based on the activity of the merchants, so Starling couldn't have known this at the time or reasonably prevented these payments.

Mr C had already accepted that he'd made the payments himself and didn't think that all his complaint points had been considered. The investigator wrote to Mr C explaining his thoughts which in summary said:

- Issues with L aren't something Starling can be held responsible for.
- Merchant names (that appeared on Mr C's statement) can often be different to those used on websites.
- Starling's evidence showed the payments were authorised through the app and the amount charged should have been apparent. There's no evidence to show the transaction was due to be in Euros (rather than US dollars).

Mr C continue to disagree with the investigator's outcome and asked for a further review of his complaint, which has now been passed to me for a 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.

There's no disagreement here that Mr C made the payments himself. So, for the purposes of this complaint, those transactions raised by Mr C were considered to be authorised.

His main complaint is that Starling failed to follow up his request and seek refunds from L for the money he paid them.

It's apparent from various exchanges and evidence from the parties that two different merchants are named for the payments Mr C made with L. One of them also appears to have a different merchant code which explains the avoidance of the gambling block. I don't think Starling can be held responsible for this as the merchant's use of this code sidestepped their processes.

I also don't think that Mr C's complaint that Starling should have intervened when he admitted making the payments himself is a fair representation of the circumstances. Mr C has said himself he was fully aware of what he was doing, to the extent that he was prefunding his account with transfers to cover these payments. The payments were also made with additional security steps requiring Mr C to provide secondary authority to make the payments. So, from Starling's perspective, Mr C was using his account to make payments to merchants with sufficient funds in his account. I don't think there were any particular points that Starling should have intervened here.

Regarding the Chargeback issues, Starling looked at the situation and as the merchant was a gambling business (despite the codes they used), a Chargeback was unlikely to be successful.

I appreciate Mr C's points he's raised here, but I don't think that a Chargeback would have helped. That's because in L's exchanges with him, they said he had gambled and lost. This indicates he received the service he was paying for and presumably they would have argued the same thing through the Chargeback (even if Starling had grounds to make one which I didn't think they had)?

Also, if L were fraudulent (as Mr C has argued) then I doubt they'd respond to any Chargeback request. So, on either basis, I think Starling's decision was a reasonable one.

Overall, and whilst I have sympathy for Mr C's circumstances, he chose to use an online casino which has associated risk with it. I don't think there was anything that Starling could reasonably have done to prevent his loss or recover the funds he paid to L. As Mr C authorised the payments himself, I won't be upholding his complaint.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 18 March 2024.

David Perry
Ombudsman