

The complaint

Mr M is unhappy with how Clydesdale Bank Plc trading as Virgin Money ("Virgin Money") dealt with his request for a refund of fines he incurred.

What happened

In December 2022, Mr M hired a car from a company I'll call 'A', while he was overseas. In January 2023, he noticed that A had charged him £318.62 and taken this from his credit card account with Virgin Money. Mr M says he contacted A to query this and that he was told these were traffic fines incurred while he was in possession of the car.

Mr M says he then called the Road and Traffic Authority of the country he had visited, and they weren't able to find any fines under the car registration. They asked Mr M for an eight-digit fine number, but A didn't provide him with this. Mr M says the Authority told him the fines levied by A weren't valid as these should be issued by them, rather than A.

Mr M asked Virgin Money for help in reclaiming the money A had taken from him. They raised a chargeback, but this was defended by the merchant. Virgin Money wrote to Mr M saying the merchant had provided evidence to show that the fine was payable, and that he was liable for this. And they said there were no grounds for Mr M to make a valid claim under section 75 of the Consumer Credit Act 1974 ("s75") as there was no evidence of a breach of contract or a misrepresentation by A. Virgin Money asked Mr M to send any further information to appeal the decision within the next 10 days, so they could decide whether to pursue the chargeback further.

Virgin Money said Mr M didn't provide any further information within the 10 days they gave him, so they didn't pursue the matter any further. Mr M wasn't happy with this and complained. However, Virgin Money didn't uphold Mr M's complaint. They said the merchant had provided evidence to show the payment they took was valid and that Mr M hadn't provided any evidence to counteract the merchant's defence in time.

Mr M then referred the matter to our service. Our investigator didn't recommend that the complaint should be upheld. She said, in summary, that Virgin Money hadn't dealt with the chargeback unfairly or unfairly considered whether Mr M had a valid claim under s75.

Mr M didn't agree. He said Virgin Money hadn't considered the fine had been reduced, so it wasn't reasonable for him to be held liable for the original amount. Mr M also said it wasn't fair for him to have been given such a short period to provide further evidence to Virgin Money, and that he was out of the country during that time.

As the matter remains unresolved, Mr M's complaint has been passed to me to review.

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 want to acknowledge I've summarised the events of the complaint. I don't intend any discourtesy by this – it just reflects the informal nature of our service. I'm required to decide matters quickly and with minimum formality. But I want to assure Mr M and Virgin Money that I've reviewed everything on file. And if I don't comment on something, it's not because I haven't considered it. It's because I've concentrated on what I think are the key issues. Our powers allow me to do this.

I've looked at whether Virgin Money did anything wrong in the way they handled the chargeback claim.

A chargeback is the process by which payment settlement disputes are resolved between card issuers and merchants, under the relevant card scheme rules. What this means here is that Virgin Money can in some circumstances ask for a transaction to be reversed if there's a problem with the goods or services supplied by the merchant that the consumer paid for.

But the chargeback process doesn't give the consumer legal rights and it isn't guaranteed to result in a refund. It all depends on what the merchant says in response to the request the bank submits.

There first must be a right to apply for a chargeback under the card scheme rules. And I'd consider it to be good practice for Virgin Money to raise a chargeback if it has a good chance of being successful. It's important to note that chargebacks are decided based on the card scheme's rules, not the relative merits of a cardholder/merchant dispute. So, it's not for Virgin Money – or me – to decide whether Mr M should be allowed to reclaim the money A took from his account. Virgin Money should raise the appropriate chargeback and consider whether any filed defence complies with the relevant chargeback rules. From what I've seen, that's what Virgin Money likely did in respect of the claim. I'll explain why.

Virgin Money raised a chargeback, but it was defended by the merchant. It's not clear what reason code Virgin Money used for this, but nevertheless the merchant defended the claim on the basis the fines incurred by Mr M were valid and payable by him. In any event though, I wouldn't necessarily have expected Virgin Money to have attempted the chargeback, because I don't think they would've had a reasonable prospect of success.

The chargeback rules are set out by the scheme administrator, which in this case is MasterCard. The rules in place at the time have a section which refers specifically to 'Addendum disputes'. It covers situations whereby customers dispute transactions that happen after a valid transaction involving the same merchant and cardholder had already taken place. I think that's clearly the situation here – Mr M accepts that he entered into an agreement to pay for the hire of a vehicle. He disputes subsequent transactions in relation to the same agreement with the same merchant.

The notes in relation to this condition say; "Cardholders are responsible for valid addendum charges. Examples include, but are not limited to, meals that were signed for by the cardholder but not included in the final hotel folio or for parking tickets/traffic fines issued while the vehicle was in the cardholder's possession."

I think the charges in dispute here come under this rule. And I don't think it's in dispute that the charges were incurred whilst the vehicle was under hire and in Mr M's possession. So, I don't think that Virgin Money had grounds in pursuing the chargeback any further given what the relevant rules say about the charges Mr M sought to dispute.

Additionally, and for the avoidance of doubt, I don't think Mr M's chargeback would've had a reasonable prospect of success in any case. Broadly speaking, I say this because I think that the evidence presented shows that Mr M had given authority for the merchant to apply

for the sums they did. Mr M has provided a copy of the rental agreement. Both the agreement and the associated terms are clear that by entering into the agreement Mr M accepted that he would pay the merchant for traffic fines during the rental period. Lastly, the agreement explicitly said that Mr M authorised the merchant to charge the card he provided.

Overall, I think it's evident that Mr M had agreed to pay fines incurred during his use. I also think it's clear that Mr M agreed for the merchant to charge his credit card for those sums.

Given all of the above, I find that Virgin Money reached a fair outcome on Mr M's claim. And I also find that Virgin Money didn't act unfairly in declining Mr M's s.75 claim as I see no basis on which A breached their contract with Mr M given the term relating to fines in the rental agreement.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 16 August 2024.

Daniel Picken
Ombudsman