

The complaint

Mr O complains that Starling Bank Limited won't reimburse him money he lost after being a victim of a fraud.

What happened

As the circumstances of this complaint are well-known to both parties, I have summarised them briefly below.

In January 2024, Mr O was looking for a property to rent. He found an appropriate room, on a website, and was introduced to the landlord who contacted him via a messaging platform.

Mr O viewed the property and was happy to proceed with the rental. So, on 19 January 2024 he made a payment of £800 to the account details provided by the landlord to secure the property.

Mr O and the landlord exchanged further messages arranging the collection of keys and the date he would move in. Mr O was also told by the landlord that there were further payments outstanding that would need to be paid before moving into the property. Mr O made three further payments to the account as follows:

1. 25 Jan 2024 – £150
2. 26 Jan 2024 – £145
3. 26 Jan 2024 – £9

Eventually, communications broke down between both parties and the rental agreement fell through. Mr O asked for the funds he'd sent to be returned to him. But as the landlord failed to respond, he contacted Starling and reported the matter as fraud.

Starling looked into Mr O's complaint but concluded it wasn't liable to reimburse him. It considered his complaint against the Contingent Reimbursement Model Code (the CRM Code) but deemed the matter a civil dispute between Mr O and the landlord. That meant it wasn't required, under the Code, to reimburse him.

Mr O remained unhappy with Starling's outcome, so he came to our service for an independent review. An Investigator considered the evidence and testimony provided by both parties, but agreed the matter was likely a civil dispute between Mr O and the landlord. He therefore agreed Mr O wasn't eligible for a reimbursement, as it's likely he wasn't victim of a fraud.

Mr O disagreed with the Investigator's assessment as he argued he had been the victim of fraud. So the matter has now been passed to me for a decision to be made.

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.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

It's not in dispute that Mr O made the payments to the third-party himself. So, in accordance with the Payment Services Regulations 2017 (PSR 2017) Mr O is presumed liable for the loss in the first instance.

However, Starling is a signatory to the Lending Standards Board's Contingent Reimbursement Model (CRM) Code. Under that Code, firms are expected to reimburse customers who fall victim to fraud, subject to a number of exceptions.

However, the CRM code is only relevant if I'm persuaded Mr O did fall victim to a fraud. The Code specifically doesn't cover certain types of dispute. It says:

"This Code does not apply to...private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services, or digital content but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier".

From the information provided thus far by Mr O, I'm not persuaded he has been a victim of fraud. I'll explain why.

While Mr O hasn't provided the original advertisement for the property in question, I've carried out open resource checks on the price of rooms in the general vicinity of the postcode he was due to move into. This has confirmed that the price of the room was in line with rooms of a similar size. So I can't see that this was an opportunity that was too-good-to-be-true: as is common in instances of fraud.

Mr O has told our service that he attended the property and viewed it prior to making the initial payment of £800. While he didn't view the property with the person he was speaking with, he was shown around by a tradesperson who was decorating it at the time. This would suggest that the person he was speaking with had access to the property. Something that is also uncommon in frauds such as this.

Mr O has also provided some of the messages that were sent to and from the landlord he was speaking with. These messages suggest that the relationship between Mr O and the landlord broke down while arranging for payments to be made and the keys handed over.

The landlord made it clear on several occasions that full payment of the rent and deposit would need to be made prior to handing over the keys to the property. But Mr O understandably didn't want to make the final payment until a contract had been provided. As both parties couldn't reach an agreement, the landlord eventually decided they no longer wished to rent the room to him. And they asked Mr O to provide his banking information so that a refund could be provided.

I don't have a full transcript of the messages sent between both parties, or the dates they were sent, but the timeline I have extrapolated from the information provided is:

- Mr O sent the final payment of £9 on 26 January 2024. This was a Friday, and this correlates with the messages sent asking for a refund, which is also shown on the messages as being a Friday.

- Mr O provided his banking information for the refund to be provided on this date, and the landlord sent a message back confirming the amounts that were to be returned.
- On the same day, Mr O sent the landlord a number of messages chasing the payment over the course of circa three hours: with the final message stating he would escalate the situation and report the landlord to the police.
- According to Starling's records, Mr O reported the matter as fraud two days later, on 28 January 2024. It has confirmed it contacted the receiving bank to report the allegation the same day.
- Mr O has provided our service with a message from the landlord, which appears to have been sent one week later. This says that a decision had been made not to rent out the room to him due to his behaviour. The landlord goes on to say that their account had been reported for fraud when they were attempting to process the refund and the account was frozen due to this. They point out that, as this required time and resources to rectify, they were now in the process of calculating the loss caused by Mr O's actions and would deduct this from the balance owed.

This does suggest a private civil dispute between both parties where grievances are present regarding conduct from both sides. Mr O was clearly unhappy with the landlord not providing a contract, and the landlord was frustrated with the full balance not being paid.

Furthermore, Mr O was introduced to the landlord via a legitimate website advertising rental properties and rooms. I don't have the benefit of knowing the level of due diligence checks or security measures this website has in place to ensure landlords or advertisers are legitimate. But Mr O has contacted the website directly and it has considered his complaint.

In the website's response, it provided the advertiser's name. And this matches the name on the account Mr O paid. It also confirmed that the advertiser engaged with its enquiries and had told it the refund was refused due to Mr O having their account frozen: causing a loss of income. The website didn't express a concern with its service user and suggested Mr O pursue the matter further by civil proceedings.

Likewise, Starling contacted the beneficiary bank account provider where Mr O sent his funds. And again, the account provider dismissed the allegations made, arguing that it was likely a civil dispute.

Taking all the above into consideration, I'm persuaded that this is more likely than not a civil dispute between Mr O and the landlord, rather than a fraud. Starling therefore has no obligation to reimburse Mr O the money he has lost. But should any further evidence come to light going forward to prove he has been a victim of fraud, Mr O does have the option to present this to Starling for further consideration.

My final decision

For the reasons I've given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 3 January 2025.

Stephen Westlake
Ombudsman