

## **The complaint**

Mr T, on behalf of H Limited, complains that New Wave Capital Limited (trading as Capital on Tap) did not request a chargeback when he unknowingly bought stolen goods.

## **What happened**

Mr T says he spent almost £250,000 purchasing branded products which he has now been informed were stolen. He says he is now being pursued by the brand owners and has been asked to return the goods to them. Mr T adds that the products are nearing their expiration date and he's paying around £1,500 per month to store products he cannot sell. He says he is being severely affected both financially and mentally.

Capital on Tap says it was unable to raise a chargeback as the goods were successfully delivered and there were no issues with them. It also told Mr T that the dispute needed to be raised within 120 days of the transactions. Therefore, it says, it is satisfied that it had correctly followed the Visa Chargeback process. It did, however, acknowledge that its communication could have been better, and paid Mr T £50 for this.

Our investigator did not recommend the complaint should be upheld. She didn't find Capital on Tap had acted unfairly as she said it had followed the chargeback rules set out by Visa.

Mr T responded to say, in summary, that whilst he understands the restrictions of the chargeback process and Section 75 claims, the circumstances clearly involve fraudulent activity, and the case should be reviewed in light of the legal and financial consequences.

## **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've seen evidence to show that Mr T paid £108,350 to a supplier using his Capital on Tap credit card between 4 December 2023 and 23 March 2024. Capital on Tap says that when Mr T contacted them on 31 July 2024, he was told he was past the 120-day timeframe to initiate a dispute. However, it offered to refer the claim to its Disputes team to see if an exception could be made. Later the same day Capital on Tap sent Mr T an email to say that it could not raise a dispute as there was no issue with the goods Mr T had received.

Before attempting a chargeback, the card issuer needs to consider whether it's likely to be successful. This is wholly dependent on the rules of the card scheme, in this case Visa, and not the merits of the dispute. As such, I'm satisfied that a chargeback would have been unsuccessful because:

- Visa has a deadline of 120 days in which to raise a claim and this dispute was raised outside that limit;
- There isn't an applicable chargeback code for the circumstances – the goods were delivered on time and were as described, in terms of quality.

So, much as I sympathise with the situation in which Mr T found himself, I can't conclude Capital on Tap was wrong not to attempt a chargeback.

That said, I have listened to the calls between Mr T and Capital on Tap, and I do think the information he received could have been clearer. I find that Capital on Tap's offer of £50 is fair compensation for this.

I've also considered whether a Section 75 claim could have been raised, but as the purchaser was a small business, this protection does not apply under consumer law.

Given all the circumstances of the case, I'm persuaded that Mr T should consider legal action, if he hasn't already, as it seems the supplier of the goods did not have title to sell them.

### **My final decision**

My decision is that New Wave Capital Limited (trading as Capital on Tap) should pay Mr T £50 as a result of the unclear communication, as it has already done.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T, on behalf of H Limited, to accept or reject my decision before 29 November 2024.

Amanda Williams  
**Ombudsman**