

## **complaint**

Mr B has complained NewDay Limited, trading as Aqua, won't refund £189.99 he paid to a company for IT services on his Aqua credit card.

## **background**

In June 2017 Mr B received a cold call from an IT company. They told him his computer was infected by viruses but they could sort this out for him. Mr B wasn't too keen on doing this but ended up paying them £189.99 under pressure. Anti-virus software was fitted to his computer after he gave them remote access.

Mr B later got a call from someone suggesting he'd been scammed and he should contact his credit card company. Mr B complained to Aqua about what had happened. He was also concerned he'd been pressurised to buy something he didn't need. He'd since been told by his own IT security company that he had all the security and anti-virus protection he needed.

Aqua reviewed Mr B's complaint. They got a copy of an invoice and service details from the company whose services Mr B had bought. As Aqua could see Mr B had authorised the transaction and received the service, they didn't think they could uphold his complaint.

Mr B brought his complaint to the ombudsman service. Our adjudicator didn't think Aqua had done anything wrong so she told Mr B she couldn't uphold his complaint.

Mr B remained unhappy and asked an ombudsman to review his complaint. Before I was able to consider this a further investigator reviewed the complaint.

He felt it was clear Mr B had not understood what he was buying when he bought the services. After discussion with Aqua, they agreed to refund £189.99. They explained Mr B's account was severely in arrears as no payments had been made for more than a year. They'd now sold the debt on to a debt recovery company.

We tried to contact Mr B to let him know about this offer. He'd formerly had a representative on the account but this was no longer the case. We were unable to contact Mr B.

I now have everything I need to complete a final decision.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I think Aqua's offer overall is fair. I'll explain why.

The Payment Services Regulations primarily require banks to refund customers if they didn't make or authorise payments themselves. Certain other circumstances do apply – specifically in this type of case whether the transactions were distance-related. So when we look at whether a bank has acted fairly in rejecting someone's fraud complaint, one of the things we consider is whether the customer made the transactions themselves or allowed them to be made. If they did, then we generally wouldn't ask the bank to refund them. Although there are other circumstances that we take into account.

I've considered the evidence here. There's no doubt Mr B made this transaction himself. He gave over his card details and then allowed the IT service company access to his computer. I also think it's clear Mr B got a service from this company.

However I don't think Mr B knew what he was buying nor why. I've seen nothing to doubt his feeling he was pressurised to buy the anti-virus service. I can also see why, having spoken to his own IT security company, Mr B felt he'd been scammed.

So I'm pleased Aqua agreed to refund the £189.99 to Mr B's credit card account. I would have asked them to do this too.

I appreciate this won't solve the problems Mr B is having with his account. I believe he is discussing with the company that now owns the credit card debt about how he can make arrangements to pay what's owed. But £189.99 will be removed from that debt.

### **my final decision**

For the reasons I've given, my final decision is to instruct NewDay Limited, trading as Aqua, to make sure £189.99 is removed from Mr B's credit card debt now owned by a third party.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 2 January 2020.

Sandra Quinn  
**ombudsman**