

complaint

O, a limited company, complains about action that WorldPay (UK) Limited took to recover an outstanding debt. O's complaint is brought by Mr D.

background

O rents a payment card reader from WorldPay, and uses the services of WorldPay to process credit and debit card payments for its business. Mr D told us that WorldPay started to divert the money that his business takes in through card payments, to pay off a debt that it claimed O owed to it. Mr D said that this cost the business about £500, because he had to borrow to cover staff wages and bills during the time that O wasn't receiving the revenue from the business. He wanted WorldPay to pay O back that money.

WorldPay said that Mr D had an outstanding debt which went back to 2014, around when he'd started using its services. It said that it had made a number of attempts to get O to pay back that debt. As a last resort, it had diverted funds from transactions done by O to pay back the debt. It said it wrote to O a number of times to try and get it to make an arrangement to pay before this, and it wrote before the New Year to say that if O didn't contact it soon, it would start to divert the money that O's business received through card payments to pay off the debt. O didn't get in touch, so WorldPay did that.

WorldPay said that O owed it £2,466.27, but it had actually only collected £2,044.17. It said that because it had told O that this debt was paid, it would write off the remaining amount.

Mr D said that O was closed for three weeks after the New Year, so it didn't get the letters that WorldPay sent. But WorldPay said that O had processed payments up until 31 December, and then again from 11 January, so it thought that O would've received its letters.

Our adjudicator didn't uphold this complaint. She said that WorldPay had been trying for some time to get O to clear this debt, but O hadn't made an arrangement to pay. She said that it should've been apparent to Mr D that this debt was outstanding. She thought that diverting payments was a last resort. WorldPay was allowed to do that under the terms of O's agreement with it, and our adjudicator didn't think that WorldPay did anything wrong when it did that.

Our adjudicator said that she thought that O did get WorldPay's letters, and that O hadn't contacted WorldPay to resolve the issue before 17 January. That call was about processing a refund, not about paying the debt. On that call, Mr D said O was experiencing financial difficulties, so our adjudicator said that WorldPay had no alternative but to take the action it did to recover money. Our adjudicator didn't think O did anything wrong when it did that.

Our adjudicator said that WorldPay had told our service that it wouldn't try to recover the remaining amount that O owed it. And O could close its merchant account with WorldPay if it wanted to, without notice or penalty.

Mr D, on behalf of O, didn't agree with that. He said that the mistake about the amount recovered just showed what a poor company WorldPay was. And he said that he'd tried to contact WorldPay on 16 January too, and it had just told him that the reason he couldn't make a refund was because he needed to update the payment machine. It wasn't. He said that we should ask WorldPay for those calls.

Our adjudicator replied to say that WorldPay hadn't been able to trace calls made on 16 January. Our adjudicator had listened to the call on 17 January, and she said that, although Mr D said that O had never received letters from WorldPay about this debt, WorldPay had shown us that it had sent those letters. On that call Mr D said that he wanted to pay off the balance, but then said that he couldn't pay it all at once. He said that O was in financial difficulties. WorldPay said that the only other option was for it to close O's account and come to an arrangement to repay the arrears. At that point, Mr D ended the call.

Our adjudicator also said that M D had said that because WorldPay had only deducted most, not all, of the money that O owed it, that showed how bad it was at handling its own financial affairs. But our adjudicator said that WorldPay was entitled to ask for the full amount of arrears. Its offer to write off the difference of £422.10 was made as a gesture of goodwill, and not something that WorldPay was obliged to do.

Because our adjudicator and Mr D, on behalf of O, didn't agree, this case was passed to me for 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. I've reached the same overall conclusion on this case as our adjudicator.

O has used the services of WorldPay to process card payments for its business since late 2014. It has previously complained to this service about WorldPay. This service said in May 2016 that the offers that WorldPay had already made represented a fair settlement to O's complaint. I can see that a credit was made to O's account then.

O had an outstanding debt to WorldPay at that time. The documents that WorldPay has sent us suggest that O only started to pay its monthly charges in July 2017. Those payments were collected by direct debit, after Mr D completed a new direct debit mandate. Mr D says that he understood that the arrears were also being collected through this payment. It's not clear to me how Mr D reached that view. O hadn't reached any sort of payment plan with WorldPay to cover its debt, and Mr D hasn't shown us any documentation which would suggest that payments were being made towards the arrears that O owed to WorldPay. I don't think that the arrears were being collected through O's direct debit payment to WorldPay.

Mr D said that he'd been contacted by an external collections agent, and he'd been liaising with the agent about clearing the arrears. WorldPay's internal notes say that it spoke to Mr D in July about this debt. WorldPay agreed to send him an up to date debt file. Mr D rang again later that month to say he hadn't received it, and WorldPay said he was right, it had forgotten to send it. It sent it out then. Mr D doesn't seem to have contacted WorldPay in response to that. So I think that Mr D, on behalf of O, was aware from July that there was no arrangement in place to pay off this debt.

WorldPay then wrote again on 8 December, to ask O to make payment within seven days. That letter mentioned that O's account might be suspended, closed or settlement deferred (by which I think it meant that the money it collected for O wouldn't be paid over to it) if no payment was made. And on 28 December, it wrote to O to say that if it didn't receive an acceptable offer of payment by 10 January 2018, it would divert the money which was being

collected from card payments to settle the debt. WorldPay wrote again on 5 January, to say that it hadn't received any payment towards the debt, and to say that O was at risk of having this debt set off against any settlement that WorldPay would normally make of payments it had processed for O. On 11 January, WorldPay started to divert payments.

I appreciate that O was closed from 1 January to 10 January inclusive. So it may not have received the warning of the action that WorldPay was proposing to take before the action was taken. But I don't think that would be WorldPay's fault. And I don't think it makes the action that WorldPay then took unfair. I think it's relevant that WorldPay had been trying to recover this debt for a very long time. And, even if Mr D didn't get the notice telling him payments would be diverted, WorldPay had given sufficient notice of what it proposed to do. So I don't think that WorldPay did anything wrong when it started to divert the money that O's business took in card payments to pay off its debt.

Mr D rang WorldPay on 17 January, when he wasn't able to process a refund. He said that he tried to contact WorldPay on 16 January too, but it just told him that his card reader needed to be updated. WorldPay said it had no record of calls on 16 January. Mr D sent us what he said were call logs, which showed two calls to WorldPay's number on 16 January. I don't know whether those calls actually connected. But I don't think whether or not Mr D spoke to WorldPay on 16 January would make a difference to this complaint overall, as payments were already being diverted by then. If Mr D was initially given wrong information about why he wasn't able to process a refund, then I think that would've been adequately compensated by WorldPay's decision not to pursue an outstanding debt of over £400.

When Mr D spoke to WorldPay about the debt on 17 January, it wasn't willing to accept payment by instalments. Mr D said that the letter he'd received told him to contact O if he was in financial difficulties, and he was doing that now. But I've decided that Mr D had been aware of this debt for some time, so he had opportunities previously to either reach an agreement to pay back the arrears or to tell WorldPay if he was going to face problems with repayments. I don't think that it was unfair or unreasonable for WorldPay to refuse to just stop the ongoing diversion of O's payments at that point and put a payment plan in place.

The divert stopped on 31 January. I appreciate that it must've caused some costs to O to have this divert in place for that time, but I understand that O was able to borrow to meet its debts.

WorldPay said that it hadn't actually recovered the full debt. But it said that it had told Mr D it had. So WorldPay said it would write off the remaining debt. Like our adjudicator, I'm not convinced that WorldPay had to do that. But, in doing so, I think it has provided compensation to O, which more than makes up for any small mistakes it may have made in this case, such as not forwarding a full breakdown of the debt when first asked. I don't think that WorldPay has to do any more now.

I know that Mr D, on behalf of O, will be disappointed, but I don't think this complaint should be upheld.

my final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask O to accept or reject my decision before 13 July 2018.

Esther Absalom-Gough
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