

complaint

Mr W complains that Virgin Money PLC won't refund a payment made on his credit card for a training course and test.

background

In January 2018 Mr W used his Virgin Money credit card to pay for a training course and subsequent test supplied by a training company. He rang in before the test saying he didn't feel the training was sufficient. He also rang in after the test to say he'd failed and wanted to complain. The training company didn't agree so Mr W took his issues to Virgin.

Virgin looked into the matter. It raised a chargeback with the training company and considered the matter under Section 75 of the Consumer Credit Act 1974. But having done this it felt it had taken the matter as far as it could and didn't need to pay anything to Mr W for the training course and test. Virgin did pay £75 to Mr W's account due to failings in the customer service it provided him.

Mr W didn't think this was fair, so he brought the complaint to our service. Our investigator looked into the matter. Overall, she didn't think Virgin had acted unfairly by declining Mr W's request for a refund. Mr W didn't agree. So the complaint has been passed to me to decide.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

To be clear this complaint is about Virgin, as Mr W's credit card account provider. It's not about the training course provider, which isn't a financial service provider and so doesn't fall within my remit. As this complaint is only about Virgin I'm only considering whether it should have helped with the dispute with the training provider or not.

could Virgin challenge the transaction through a chargeback?

In certain circumstances, when a cardholder has a dispute about a transaction, as Mr W does here, Virgin (as the card issuer) can attempt to go through a chargeback process. I don't think Virgin could've challenged the payment through the chargeback process on the basis Mr W didn't properly authorise the transaction, given the evidence here and that Mr W doesn't dispute he used his account to pay for the training and test.

Virgin is then required to consider whether there is a reasonable prospect of success when it is considering whether to go through the chargeback process or not. If it does, then it must do so properly. The supplier (training company) would then receive that chargeback request and may agree to refund the payment or may contest the chargeback. If it contests, then Virgin should consider this and then if it still feels the chargeback is warranted then it can take the chargeback further and ultimately to the scheme provider (not Virgin) who will then make an independent determination on the matter. So Virgin isn't solely responsible for the decision whether to refund or not when going through the chargeback process.

In this case Virgin raised the chargeback and the training company contested it by responding that Mr W got what he paid for, as he went on the training course and did the

test. Virgin has said that it felt that there were no grounds for taking the matter further as there wasn't a reasonable prospect of success, so Mr W hasn't lost out.

Having considered what has happened here and having listened to the calls its clear that Mr W doesn't dispute he went on the training and did the test. So I think Mr W hasn't lost out due to Virgin's position on this matter. I think that even if it had gone through the chargeback process to the end it's likely that it would have been unsuccessful considering the circumstances here. So Mr W hasn't lost out in how Virgin treated him in relation to the chargeback.

how about Section 75 of the Consumer Credit Act 1974?

The transaction was made using Mr W's credit card. Under section 75 of this Act, in certain circumstances, he has an equal right to claim against Virgin as he does against the training company if there's been a breach of contract or misrepresentation by the training company.

For a valid claim under Section 75 there must be a debtor-creditor-supplier arrangement in place. Having considered the circumstances I'm satisfied that the appropriate relationship is in place. I've also considered the financial limit requirements of the Act in relation to what happened here. I'm satisfied on balance the financial limits of section 75 have been met.

Was there breach or misrepresentation

Mr W accepts he did the training and the test but feels that the training wasn't very good and that it didn't prepare him properly for the test. But it must be remembered here that this complaint and indeed this decision is regarding Mr W's complaint about Virgin and what it did.

Virgin considered whether it was persuaded that there had been a breach in the contract between the supplier and Mr W. It looked into the matter and could see that Mr W had been on the training and did the test-which is what the supplier was contracted to supply. So it didn't feel there had been a breach of contract. It also considered whether Mr W had been materially misrepresented into entering the contract. But for similar reasons it felt that this wasn't the case as there was no persuasive evidence that Mr W had been told anything that wasn't true which had led him to buying the course and test.

I've considered what has happened here. It needs to be remembered that failing the test doesn't mean the training was insufficient. That doesn't necessarily follow. It's also worth noting that during the calls it is made clear that many people have gone on this training course and passed the test. So making it clear that it feels that the course is fit for purpose.

Having considered the matter I'm not persuaded Virgin has done anything wrong by concluding that there was no breach or misrepresentation in this case. There was no guarantee of passing the test. Mr W doesn't dispute he did the hours of training and did the test. So I don't think Virgin should refund the cost of the course and test to Mr W under Section 75.

I can see that Virgin did pay to Mr W's account £75 for the way it dealt with him and the customer service it provided. I think that's a fair and reasonable remedy for what happened here.

Mr W has also complained about being credited the money for the course and then it being redebited from his account. Virgin (like many firms) has a policy of making sure its account holders aren't out of pocket when they have disputes such as this. I think that's fair. But once the dispute has been looked into and Virgin decided that Mr W wasn't due a refund through Chargeback or Section 75, then it removed the money it had covered the disputed amount with from his account. I think this is fair also as it had, in effect, loaned him that money during its investigation.

Mr W has recently pointed to mental health issues and financial difficulties which this service then raised with Virgin. Although I cannot consider how Virgin has treated Mr W in light of those issues (as he hasn't complained to it about that) I am glad to see that it took that information onboard when this service brought it to its attention and said it would take the matters forward appropriately.

I do appreciate Mr W won't be wholly pleased by this decision. But as I said this is a decision about Virgin and not about the actions of the training company. And as I don't think Virgin has done anything wrong then I have decided that Virgin doesn't have to do anything further.

my final decision

For the reasons set out above, I do not uphold the complaint against Virgin Money PLC.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr W to let me know whether he accepts or rejects my decision before 18 December 2020.

Rod Glyn-Thomas
ombudsman