

complaint

Mr M feels that Newday Limited ("Newday") has treated him unfairly in relation to a transaction which it is holding him accountable for.

background

Mr M complains that he has been held accountable for a transaction with an online shop for goods. Mr M accepts there was a transaction online with this shop for the amount debited from his account but says he actually made the transaction using a card from a separate financial services firm. So he feels Newday should pay him the money back.

Mr M complained to Newday about charging him this money. Newday asked him to provide evidence that he paid for the goods from the shop using a different card. It suggested the easiest evidence would be a statement from the other financial services firm showing the transaction was made as Mr M said it was. Mr M has been asked by both Newday and this service to provide this evidence on numerous occasions. To date he has not provided such evidence. So Newday said it wasn't persuaded it had made a mistake and didn't uphold his complaint. So Mr M complained here.

The adjudicator did not uphold the complaint. Mr M does not agree so this complaint has been passed to me.

my findings

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

I should start by making clear that this decision only considers the merits of Mr M's complaint about Newday. It does not consider Mr M's service complaint. That has a separate process of which I understand Mr M has been made aware.

So considering the merits of Mr M's complaint about Newday; the parties here don't agree what actually happened in this case. As such I can only make my decision based on the evidence provided to me by the two parties. In short I must decide what is most likely to have happened. Or in other words, what happened on the balance of probabilities.

Having considered what Mr M has said and all the evidence available to me I am not upholding Mr M's complaint. I say this for several reasons. These are:

- I'm not persuaded Newday has made any mistake in charging Mr M for the transaction.
- Mr M accepts he is responsible for the spending in question. But says he used a different card. But having been asked to substantiate this he has chosen not to do so or simply cannot do so. I consider Newday's request for such evidence reasonable. In deed this service has also asked him for this evidence. It is unclear why he has chosen not to provide it.
- If I was to be persuaded by Mr M's assertions on the matter I would have to accept that in making this online transaction he used his other card. And somehow either that card's firm arbitrarily arranged with Newday for them to charge him as well. Or somehow Newday became aware of this transaction with this retailer and arbitrarily and without permission charged the exact same amount to his card on the same day.

So it would have had to find out this information that day, decide for no reason whatsoever to charge him the same amount and then charge him all on the same day. I do not think this is likely.

- I think it more likely, in the absence of evidence supporting Mr M's position, that he actually didn't use another card for this transaction. I think it more likely he used the card Newday says he did and thus it's fair for it to charge him.
- And as I've been asked to make a decision on the matter, and as I have to decide on the balance of probabilities on it I think based on what I've seen and heard that Newday is correct to charge Mr M for this transaction.

And as a consequence of all of this Mr M's complaint isn't successful.

Mr M doesn't have to be bound by this decision if he doesn't accept it. This will allow him to continue his dispute through other avenues if he so wishes. However in the interests of fairness and finality this decision brings to an end this complaint at this service.

My final decision

For the reasons I have explained I do not uphold this complaint about Newday Limited.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr M to let me know whether he accepts or rejects my decision before 18 October 2017.

Rod Glyn-Thomas
ombudsman