

complaint

Ms J is unhappy that NewDay Ltd ("NewDay") is going to cancel her store card because of the amount of time since she last used it. She thinks she should be able to choose how often she uses the card.

background

Ms J took out a store card in 2010. The card is for use in a clothing store, but is administered by NewDay.

NewDay sent Ms J a letter in March 2018 to let her know that if her store card isn't used by 12 May 2018 the store card account would be closed, as per the terms of her credit agreement. It said that Ms J hadn't used her account for almost 13 months.

Ms J thinks it's unfair for NewDay to tell her how she should use her card and said that she has been paying cash for goods purchased in the clothing store during that time. She said she keeps the card for emergencies. She also thinks that because NewDay has apologised for any inconvenience the matter may have caused, it's admitting wrongdoing.

Our investigator considered this complaint. He didn't think NewDay had done anything wrong. But Ms J disagreed so the complaint has been passed to me.

my findings

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

While I know this will come as a disappointment to Ms J, I don't uphold her complaint and I'll explain why.

I recognise that Ms J feels strongly that she should be able to use the card in a way that suits her. But I've considered the terms of the agreement she signed up to which say "*The Agreement will automatically terminate if you have not used your Card for a period of 11 months and you have paid off the full amount you owe us. In such a case, we will not issue any replacement Card on expiry of your current Card.*" It doesn't appear that Ms J used her card within the past 11 months, and this also hasn't been disputed. So, given that Ms J agreed to these conditions when taking out the store card, I don't think it's unreasonable that NewDay has decided to cancel the card if it isn't used by 12 May 2018.

Ms J has some medical circumstances which might have made it difficult for her to read and understand the terms and conditions at the time. While I recognise the impact these circumstances must have had on Ms J, I note that she chose to sign the credit agreement. So I don't think it's unreasonable for NewDay to have accepted this signature as Ms J's acceptance of the terms and conditions. And I don't think it's unfair for NewDay to act on the terms and conditions which Ms J had given her written consent to.

It's possible that Ms J didn't understand the terms and conditions she was agreeing to. And, had she clearly understood them, she might have decided not to sign the agreement, because of the requirement to use the card at least once every 11 months. But not signing the agreement would mean that Ms J wouldn't have been issued the store card at all.

Ms J said that she'd been paying by cash in the store rather than using her card. But paying in cash directly to the store is different to using the store card administered by NewDay to purchase goods on credit. And the terms of her agreement specifically state that the store card agreement will be terminated if *the card* isn't used.

Ms J thinks that because NewDay has apologised for any inconvenience caused, it's accepted that it's done something wrong. But I disagree. I think NewDay was trying to express that it's sorry to hear that Ms J is being inconvenienced by it acting on the agreed terms, though it doesn't accept responsibility for this inconvenience. The Compensation Act 2006 states "*An apology, an offer of treatment or other redress, shall not of itself amount to an admission of negligence or breach of statutory duty.*" I'm satisfied that NewDay's apology wasn't an admission of any wrongdoing.

So based on everything I've seen and been told, I don't think NewDay would be wrong to cancel Ms J's card if she chooses not to use it before 12 May 2018.

my final decision

For the reasons given above, I don't uphold Ms J's complaint against NewDay Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms J to accept or reject my decision before 8 June 2018.

Melanie Roberts
ombudsman