

complaint

Miss V's unhappy that NewDay Ltd closed her store card account. She wants it reinstated and compensation.

background

NewDay said that it'd told Miss V that if she didn't use her store card it would close her account due to inactivity. This was in line with the account's terms and conditions. As she didn't use the card the account was closed. This dormancy programme forms part of its risk strategy. It hasn't made an error.

Our investigator felt that this complaint should be upheld. In summary he said:

- Miss V's account was dormant and NewDay was entitled to give two months' notice of its intention to close the account.
- The terms and conditions also say that when she received the notice she could ask NewDay to keep the account open and return any credit balance. Miss V called NewDay and complained about the proposed account closure and this clearly indicated she wanted it kept open.
- NewDay says this part of the terms and conditions relates only to positive credit balances which Miss V's account didn't have. But that's not how he interprets the wording. In his opinion Miss V had two options if she wanted the account to remain open. She could either use it before the specified date (which she didn't do) or ask NewDay to keep it open (which she did do). Even so NewDay closed the account which wasn't applying its terms and conditions fairly.
- So, NewDay should reopen Miss V's account and pay her £50 compensation for the trouble and upset she's suffered.

NewDay doesn't agree and has asked for an ombudsman review. It says the part of the term about asking to keep the account open only relates to an account with a credit balance. But Miss V's didn't have one and was closed due to inactivity.

Miss V remains unhappy with NewDay and has also asked for an ombudsman review.

my findings

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

The terms and conditions of Miss V's NewDay store card say, amongst other things, that:

"We may close your Account (by providing two months' written notice), cancel or suspend your right to use your Account and/or reduce your Credit Limit if it has been dormant, meaning there have been no Transactions or a zero balance, or if you have had a credit balance for a period of time. When you receive notice you may ask us to keep your account open and to return any credit balance to you. If you do not ask us to do this, any small credit balance may be donated to a charity; however, the credit balance belongs to you and you can ask for it to be returned to you at any time by writing to us or calling us".

There's no doubt that Miss V's account hadn't been used for a considerable time. The word "*dormant*" isn't defined in the agreement. Even so I have no doubt the account would be considered to have been dormant in the normal sense of the word. So, NewDay was entitled to send her notice of its intention to cancel the card in two months' time if it wasn't used, as it did.

NewDay says that the part of the term about asking to keep the account open only relates to accounts with a credit balance. But I agree with the investigator that this isn't clear from the wording or layout of this term.

The relevant part of the term says "*When you receive notice you may ask us to keep your account open and to return any credit balance to you*". I think that on a normal reading of these words Miss V had a reasonable expectation that when she rang NewDay to complain about the account closure this would lead to her account remaining open as she wanted.

Taking everything into account I don't think NewDay acted reasonably or in line with the account's terms and conditions by subsequently closing Miss V's account.

To put things right I agree with the investigator that NewDay should reopen Miss V's account and also pay her £50 compensation for the trouble, upset and inconvenience she's been caused.

my final decision

I uphold this complaint and require NewDay Ltd to reopen Miss V's account and also pay her £50 compensation.

NewDay must pay the compensation within 28 days of the date on which we tell it Miss V accepts my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple.

If NewDay considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it should tell Miss V how much it's taken off. It should also give her a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss V to accept or reject my decision before 25 November 2018.

Stephen Cooper
ombudsman