

complaint

Mr R feels that the NewDay Ltd has treated him unfairly with regard to two credit card transactions he disputes, one from July and one from November 2016.

background

In January 2018 I issued a provisional decision upholding this complaint (attached). In short I found that Mr R had been double charged in July 2016 and should have one of the transactions credited to his account. I invited all parties to let me have any further submissions before I reached my final decision. Both Mr R and NewDay have responded.

my findings

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

NewDay has said in response to my provisional decision *"I would like to confirm that we have no further comments and will accept the Ombudsman decision once this is received."* Mr R said *"I acknowledge receipt of your letter and provisional decision for which I thank you most sincerely. I do not have anything further to add and await your final decision along the same lines of the provisional one."*

So having considered everything I see no reason to change my position as described in my provisional decision (attached) and above. So this complaint is successful.

What the business should do to put things right

NewDay should refund the cost of the second of the identical transactions that Mr R paid, plus the non-sterling transaction fee, to Mr R. It should apply 8% simple interest to these amounts from the date of the transaction to the date it pays the refund to Mr R. †

† HM Revenue & Customs requires NewDay to take off tax from this interest. NewDay must give Mr R a certificate showing how much tax it's taken off if Mr R asks for one.

my final decision

I uphold this complaint about NewDay Limited. I direct it to put things right as I've described. Under the rules of the Financial Ombudsman Service, I am required to ask Mr R to accept or reject my decision before 21 March 2018.

Rod Glyn-Thomas
ombudsman

Copy of Provisional Decision

complaint

Mr R feels that the NewDay Limited has treated him unfairly with regard to two credit card transactions he disputes one from July and one from November 2016.

background

Mr R disputed a transaction from November 2016. NewDay have looked into this and refunded him this money plus interest. Mr R accepted this and this money has been credited to his account. So this element of the complaint has been settled.

Mr R was charged twice for the transaction in July 2016. He says he's been double charged and he should only have been charged once. Mr R went to the merchant concerned and it said it had only been paid once and that Mr R should challenge NewDay over it.

NewDay went to the merchant and the merchant responded by saying that Mr R had had been on two flights and rejected NewDay's request for a refund.

NewDay says it went to Mr R asking for him to complete some paperwork to help it with further enquiries. It says that as it didn't get this paperwork back it closed its case.

Mr R brought his complaint here. The adjudicator and investigated the complaint against NewDay. NewDay has shown that the card scheme requested two payments from it which it paid. So it says it hasn't done anything wrong in not refunding the second payment to Mr R.

So the adjudicator has said the settlement paid to Mr R is fair and reasonable in the circumstances for the November transaction and that NewDay was right not to refund the July 2016 second payment. Mr R does not agree with the adjudicator's position regarding the complaint about NewDay. So this complaint has been passed to me.

my provisional findings

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

So having considered the matter in the round I currently think that this complaint should succeed. I say this because:

- Mr R's main complaint throughout is that he's been unfairly double charged. He has been consistent, persistent and persuasive on this position about only having authorised one transaction.
- This payment was for flights in West Africa. Having looked at the merchant's website the amount paid by Mr R is around the cost of return flights between the respective West African countries Mr R has named. So that would resolve the two flights one payment issue.
- The Merchant has repeatedly said it has only received payment. It has not alleged that Mr R still owes it money in the significant correspondence it has been involved in with issues surrounding this complaint.
- Flight prices vary on a daily basis, including the flights in question. It seems unlikely someone could buy flights on the same day for different flights and pay the exact same amount. And it doesn't seem from any evidence that Mr R was flying with anyone else.
- Bearing in mind the flights in question are four hours each way it would seem unlikely to me that Mr R decided to fly four flights between two cities in different countries in the timeframe in question.

- Ultimately NewDay can only charge Mr R twice if it is satisfied that he authorised two transactions. And bearing in mind what Mr R has said and what the merchant has said I think Mr R only authorised one transaction. And I think this should have been clear to NewDay from the start.
- NewDay has pointed to what the card scheme has said to it and evidenced this. But the weight of evidence from Mr R and the merchant is that there should only be one transaction. So although there is conflicting evidence NewDay should have backed the stronger argument and decided on balance that Mr R had only authorised one transaction and thus refunded the second transaction and sorted out the issue with the card scheme.
- NewDay has pointed to Mr R not completing the paperwork it sent him. I appreciate that. But I can also see Mr R repeatedly contacting NewDay and it not dealing with his correspondence particularly well. But it was clear he disputed the double payment from the very start. And I think NewDay should have refunded him it from when he raised this complaint to it.
- The fact that the merchant hasn't been totally consistent on this matter isn't the fault of Mr R.

So in short my current thinking is that this complaint should succeed.

What the business should do to put things right

NewDay should refund the cost of the second of the identical transactions plus the non-sterling transaction fee to Mr R. It should apply 8% simple interest to these amounts from the date of the transaction to the date it pays the refund to Mr R.[†]

[†] HM Revenue & Customs requires NewDay to take off tax from this interest. NewDay must give Mr R a certificate showing how much tax it's taken off if Mr R asks for one.

my provisional decision

For the above reasons, I am currently minded to uphold this complaint. I now invite both parties to provide me with any further submissions they wish to have taken into account, after which I will issue my final decision.

Rod Glyn-Thomas
ombudsman