

complaint

Mr J complains that NewDay Limited (“NewDay”) won’t pay a refund for fraudulent transactions he says were made on his credit card account.

background

Mr J has described how he lost his credit card and reported it when he realised. Before he reported it lost it was used to make a number of unauthorised transactions. Mr J conceded that he may have written his PIN on the back of the card. Mr J complained to NewDay, seeking a refund, but it declined to provide this saying that this was because he’d been negligent with his PIN number, contrary to his account terms and conditions.

The complaint was brought to this service and our adjudicator referred to the Consumer Credit Act 1974, and said that NewDay was obliged to refund Mr J and so the complaint should be upheld. The adjudicator also provided NewDay with our approach to such cases and described in detail the relevant law. NewDay disagreed with the adjudicator’s position and sought an ombudsman decision but without giving any reasons as to why it thought the adjudicator’s position was wrong.

my findings

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

Having done so, I think Mr J is entitled to a refund, and this is based on the fact that the consumer credit legislation provides that a customer will not be held liable for a debt incurred by someone else using the credit card. Newday has not argued that Mr J made or authorised these transactions. Having considered what Mr J has said I am satisfied that these transactions were not authorised by him and he didn’t consent to someone else having the card. So I uphold this complaint.

my final decision

My final decision is that I uphold the complaint. I direct NewDay Limited to refund the disputed transactions, together with any associated interest and fees.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr J to accept or reject my decision before 7 December 2015.

Rod Glyn-Thomas
ombudsman