

complaint

Mr F complains that National Westminster Bank Plc paid a direct debit causing his business account to become overdrawn. Mr F asks that NatWest reverses the transaction and pays compensation.

background

In May 2017 Mr F asked NatWest to reclaim seven years of direct debit payments to a credit card provider. NatWest reversed the refund a week later. This caused Mr F's account to go into an unauthorised overdraft. The debt has been sold to a third party.

The adjudicator didn't recommend that the complaint should be upheld, saying:

- The direct debit guarantee is intended to protect customers if there's an error with their direct debit payment. NatWest explained that if the money is owed, the refund won't be successful. NatWest followed the correct process when dealing with Mr F's direct debit refund request.
- Mr F's refund request was unlikely to succeed. Mr F told NatWest he wanted to reclaim the direct debit payment due to the high levels of interest charged by the card provider and the fact that the card account balance wasn't reducing each month. This was a dispute with the card provider and isn't covered by the direct debit guarantee.
- Mr F ought to have known the balance on his business account increased due to credits related to the direct debit refund. He transferred money out of the account into another account in his name. When the direct debit credits were repaid, the account became overdrawn. NatWest was entitled to ask for the debt to be paid.

Mr F didn't agree. On his behalf, a family member said NatWest is acting as trustee and Mr F is the beneficiary. She says NatWest has no right to the funds it asks for. She says if we don't agree Mr F will take the matter to court.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

I think it's helpful to set out the sequence of events here:

- 1 May 2017 A family member acting on behalf of Mr F asks NatWest to refund seven years of direct debit payments to a credit card provider.
- 2 May 2017 Mr F calls NatWest and asks it to cancel the refund request. He asks if the refund request has gone through. NatWest says the account balance is about £1,300. The call handler says she'll email the team to cancel the refund request.
- Mr F says he asked for the direct debit refund because the balance of his credit card account hasn't reduced, despite making monthly payments, due to the high interest rate. He says he's in financial difficulties and can't repay his debts.
- NatWest recommends Mr F seeks advice about his debts. It says the direct debit refund won't be successful if he owes the money to the credit card provider.
- After the call, there are a series of credit into Mr F's account, increasing the balance to £19,000.
- 3 May 2017 Mr F transfers £17,000 to another account in his name.
- 9 May 2017 The direct debit refunds are reversed. The account becomes overdrawn by about £17,000.

The direct debit guarantee is intended to protect customers if there's an error with the direct debit payment. That wasn't the case here. Here, it seems Mr F disputes how the credit card provider managed his account and in particular the rate of interest it applied. The direct debit guarantee says *"If you receive a refund you are not entitled to, you must pay it back when the organisation asks you to"*.

NatWest dealt with the request to refund the direct debit payments in accordance with its processes. When NatWest spoke to Mr F and he explained why the request had been made it told him the refund wouldn't be successful.

When Mr F called NatWest on 2 May 2017 the balance didn't at that point include the refunded direct debits. NatWest says this is because Mr F's call was made first thing in the morning, before the refunds were processed.

I think Mr F must reasonably have known that the credits into his account on 2 May 2017 were due to the refund request. If there was any doubt, he could have asked NatWest for more information. NatWest told Mr F the refund request wouldn't be successful. And Mr F had asked for it to be cancelled.

So I think, when Mr F transferred £17,000 out of the account, he was reasonably aware these credits would be returned to the card provider. And he'd have known that this would mean the account would be overdrawn. In the circumstances, I think it's reasonable for NatWest to ask Mr F to repay the overdraft.

Mr F – or rather a family member on his behalf – has raised points of law and equity which, she says, means NatWest can't claim the debt. Whether a debt is valid and enforceable is, ultimately, a matter for a court to decide. I think it's reasonable for NatWest to ask Mr F to repay the debt. But if Mr F doesn't accept my decision he's free to raise these points in court.

my final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 12 July 2018.

Ruth Stevenson
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