

Complaint

W, a limited company, complains that Starling Bank Limited didn't reimburse it after it fell victim to what it claims was fraud. W is represented by its director, Mr U. For simplicity's sake, I've generally referred to Mr U throughout the text of this decision.

Background

In late 2021, Mr U used W's account to pay £7,880 to a partner business to obtain foreign currency. That payment was to another Starling account. Mr U says that it didn't carry out their agreement. He contacted Starling and told it he'd fallen victim to fraud. Starling investigated but didn't agree to refund the money. It said that this was a civil dispute and he should attempt to get his money back directly from the business he'd transacted with.

Mr U was unhappy with this response. He says that he did attempt to recover his money from that business, but he was told that Starling had restricted its account and removed his funds from it. That meant it wasn't possible for it to refund him. Mr U thinks Starling should return the recovered funds.

The case was looked at by an Investigator who didn't uphold it. She said that Starling had a range of obligations in respect of preventing its customers falling victim to fraud and reimbursing them if they'd done so. But she didn't think any of those obligations applied here. She agreed with Starling that this should be considered a civil dispute.

Mr U disagreed with the Investigator's view. He reiterated that he'd attempted to resolve the matter directly with the other party but that, due to Starling's actions, it wasn't able to refund him. As Mr U disagreed with the Investigator's view, the case was passed to me. The other business sent him a picture of a message exchange it had with Starling. It asked Starling why a deduction had been made from its account. Starling responded:

"The deduction was made in connection with the disputed payment of £7,880. You have not been able to provide evidence of rightful ownership of funds ... As a result, we have returned this to the sender."

I asked Starling about whether it was able to recover W's money from the receiving account. It said it was able to recover €58.03. I contacted Mr U to ask if there was any evidence to show that Starling had recovered his entire losses as the recipient had claimed, but he didn't reply to me. As no agreement has been reached between the parties, the case has been passed to me to consider and come to a final decision.

Findings

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

Starling is a signatory to the Lending Standards Board's Contingent Reimbursement Model (CRM) Code. That Code says that, in certain circumstances where a customer falls victim to a scam, it ought to reimburse that customer. However, it specifically excludes *"private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services, or digital content but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier."*

I'm not persuaded that W is the victim of fraud here. The recipient of the payment was someone known personally to Mr U and someone he was able to contact after the event. The details of its agreement with the other party are not entirely clear, although I understand W was paying to obtain foreign currency. If W is unhappy that the other party has breached the terms of its agreement, it would be more appropriate for it to seek a civil remedy through the courts. For that reason, Starling isn't obliged to reimburse W under the CRM Code.

Mr U has claimed that he did attempt to get his money back informally by approaching the recipient directly. He was told that it couldn't refund him either because Starling had taken the money out of their account. However, the message Mr U shared with us shows that a deduction was made from the recipient's account and that the decision to do this was taken in connection with the dispute about a payment for £7,880. It doesn't show unambiguously that Starling deducted the full amount or that the full amount remained in the account when he notified it of the dispute.

Overall, without stronger evidence, I'm not persuaded Starling has done anything wrong here. If W wants to recover its money, it should do so directly from the recipient.

Final decision

For the reasons I've set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask W to accept or reject my decision before 31 August 2023.

James Kimmitt
Ombudsman