

Before the Arbiter for Financial Services

Case ASF 220/2023

EN

(the 'Complainant')

vs

Papaya Ltd.

Reg. No. C 55146

('Papaya' or 'Service Provider')

Sitting of 04 April 2024

The Arbiter,

Having considered in its entirety, the Complaint filed on 22 December 2023, including the attachments filed by the Complainant,¹

The Complaint

Where, in summary, the Complainant claimed Papaya blocked his Blackcatcard fintech account with €9,200 and has not provided any information why they cannot release these funds in spite of making several requests.

He claimed that this blocking of funds without any explanation is causing him great concern; that the Service Provider is behaving like a scam and that he has provided all information and answers. Yet his account is still blocked, and he has no possibility to withdraw his money.

By way of remedy, Complainant is requesting release of his funds amounting to €9,200.

¹ Page (P.) 1 - 6 and attachments p. 7 - 42

The reply of the Service Provider

In their reply of 08 January 2024, Papaya simply state:

“With reference to your sent letter ‘Complaint against Papaya Ltd’ with reference number OAFS Ref: ASF 220/2023 dated 22/12/2023 concerning the complaint submitted by a natural person Mr EN (hereinafter – the Claimant) to the Office of the Arbiter for Financial Services, Papaya Ltd (hereinafter – Papaya) states that due to impediments established by law of the Republic of Malta, Papaya is precluded from effecting any payment to the Claimant and is also precluded from providing any further information in respect of the matter.

We remain at your disposal for any further clarification you may require in this respect.”²

Hearing³

The Complainant submitted that:

“I used my personal account in Blackcatcard provided by Papaya Limited. My current balance available in this account is €9,200 which funds I could not move since October. I have no support to resolve this problem. I would like my funds to be returned to me and to close this account, but the bank is not allowing me to do so.”⁴

Under cross-examination, he stated:

“Asked whether I received any notices in general from the authorities in Malta, I say that, no, I have not received any messages from the Maltese authority.

Asked where I am residing, I say that now we are based in Poland.

Asked whether I am speaking from Poland, I say, yes, that is right.

I confirm that I have provided the Arbiter with all my address details”⁵

The Service Provider submitted:

² P. 47

³ Held on 26 February 2024

⁴ P. 48

⁵ *Ibid.*

“The service provider states that they had no choice but to be short in their reply to the complaint.

Mr Janis Osis, for the service provider, states that they are precluded from disclosing more information on this case.

Dr Damien Degiorgio, for the service provider, states that the entity is precluded not because it does not want to comply or because of an internal rule but it is precluded by Maltese Law from providing any details or from transferring any funds. That is all that the service provider can state.

Asked by the complainant why if it is limited by law, he did not receive any notification, Dr Damien Degiorgio states that they are precluded from answering questions of this kind and that they cannot answer for the authorities. Dr Damien Degiorgio added that they can only answer for the bank, and stated also that they are precluded from producing the authorities as witnesses.”⁶

Consideration and analysis

The Arbiter, having heard the parties and seen all the documents and submissions made, proceeds to adjudicate the case as provided in Article 19(3)(b) of Chapter 555 of the Laws of Malta by reference to what, in his opinion, is fair, equitable and reasonable in the particular circumstances and substantive merits of the case.

From the evidence provided, and from the fact that Papaya’s behaviour complained of is very specific to the Complainant and has no general application to other clients of the Service Provider, it does not result that Papaya are acting capriciously, unethically or illegally in not complying with Complainant’s request to release the funds.

⁶ P. 49

Decision

In the circumstances, the Arbiter is refuting the Complainant's request to order Papaya to release his funds. Each party is to bear its own costs related to this case.

The Service Provider is, however, ordered to keep Complainant informed, within the limits allowed by law, about the status of his request to release his funds.

Alfred Mifsud
Arbiter for Financial Services

Information Note related to the Arbiter's decision

Right of Appeal

The Arbiter's Decision is legally binding on the parties, subject only to the right of an appeal regulated by article 27 of the Arbiter for Financial Services Act (Cap. 555) ('the Act') to the Court of Appeal (Inferior Jurisdiction), not later than twenty (20) days from the date of notification of the Decision or, in the event of a request for clarification or correction of the Decision requested in terms of article 26(4) of the Act, from the date of notification of such interpretation or clarification or correction as provided for under article 27(3) of the Act.

Any requests for clarification of the award or requests to correct any errors in computation or clerical or typographical or similar errors requested in terms of article 26(4) of the Act, are to be filed with the Arbiter, with a copy to the other party, within fifteen (15) days from notification of the Decision in terms of the said article.

In accordance with established practice, the Arbiter's Decision will be uploaded on the OAFS website on expiration of the period for appeal. Personal details of the Complainant(s) will be anonymised in terms of article 11(1)(f) of the Act.
