

**AMERICAN ARBITRATION ASSOCIATION**

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In the Matter of the Arbitration between

Case Number: 01-18-0003-2988

Janeeva Graham (Claimant),

-vs-

UniRush, LLC and MetaBank (Respondents).

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**AWARD OF THE ARBITRATOR**

I, Marilyn J. Salzman, the undersigned arbitrator, having been designated in accordance with the arbitration agreement entered into by the above-named parties, and having been sworn, and the parties having agreed to waive oral hearings in accordance with the Consumer Arbitration Rules of the American Arbitration Association (AAA), and having fully reviewed and considered the written documents submitted to me by counsel for the parties, with Claimant represented by A. Blake Thomas, Esq. of Consumer Fraud Legal Services, LLC, and with Respondent represented by Elizabeth M. Shaffer of Dinsmore & Shohl, LLP, do hereby, AWARD, as follows:

This matter arises out of a contract between Claimant and Respondents under which Claimant has a prepaid debit RushCard issued by Respondent MetaBank and managed by Respondent UniRush, LLC.

Claimant brings three claims against Respondents under the Electronic Funds Transfer Act, Regulation E, 12 C.F.R. 205, specifically as follows:

1. Unauthorized transactions
2. Explanation of Findings
3. Response Time – Investigative Documents

Respondents assert a counterclaim for Respondents' attorney fees and reallocation of arbitration costs to Claimant.

1. Unauthorized Transactions:

Claimant reported 153 unauthorized transactions spanning two months and totaling \$3,878.37. The burden of proof is on Respondents to show that the transactions were in fact authorized, 15 U.S.C. 1693(g). Claimant's transaction history with the card included undisputed transactions with several merchants where the disputed transactions occurred. Claimant patronized the same merchants before and during the time in question and did not dispute similar transactions with these same merchants. Claimant continued to patronize these merchants with undisputed transactions in subsequent months. Additionally, there was no evidence of incorrect or denied PIN attempts for the disputed transactions. The Respondents have satisfied their burden of proof.

2. Explanation of Findings:

Under 12 C.F.R. 205.11(d)(1), a financial institution is required to provide "a written explanation of the institution's findings and shall note the consumer's right to request the documents that the institution relied on in making its

determination.” In the Denial Letter, dated April 26, 2018, Respondents informed Claimant that “based on our investigation, we have concluded no error occurred” without further explanation. Rather than providing Claimant with a written explanation of its findings, Respondents offered nothing more than a conclusory statement that failed to inform Claimant of any basis for denying the claim.

3. Response Time – Investigative Documents:

Pursuant to 12 C.F.R. 205.11(d)(1), a financial institution is obligated to “promptly provide” copies of any documents that it relied on in making its determination. Claimant’s counsel sent Respondents a request for the documents relied upon in the investigation and denial decision on May 12, 2018. Respondents responded on August 23, 2018. Respondents did not fulfill its statutory obligation to promptly provide copies of the documents upon Claimant’s counsel’s written request.

4. Respondents allege that Claimant’s arbitration demand is frivolous and is brought in bad faith and for purposes of harassment. Based on the evidence submitted I find that Claimant’s arbitration demand is not frivolous and was not brought in bad faith and for purposes of harassment.

Accordingly, based on the foregoing:

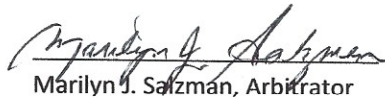
1. Claimant’s claim for damages in the amount of \$3,878.37 is hereby denied.
2. Claimant is hereby awarded statutory damages in the amount of \$200.00 pursuant to 15 U.S.C. 1693m.
3. Claimant’s attorney’s fees are hereby awarded in the amount of \$3,762.50.
4. Respondents’ claims presented herein are denied.

All damages and fees awarded to Claimant shall be borne by Respondents, jointly and severally.

The administrative fees of the AAA totaling \$1,000.00 and the compensation of the arbitrator totaling \$750.00 shall be borne as incurred.

This Award is in full settlement of all claims submitted to this Arbitration. All claims not expressly granted herein are hereby denied.

July 15, 2019

  
Marilyn J. Salzman, Arbitrator