



AMERICAN ARBITRATION ASSOCIATION

In the Matter of the Arbitration between

Case Number: 01-18-0003-3309

Darius Williams, Claimant

-vs-

Green Dot Bank, Respondent

AWARD OF ARBITRATOR

I, Patricia A. Nolan, THE UNDERSIGNED ARBITRATOR, having been designated in accordance with the arbitration agreement entered into by the above-named parties, and having been duly sworn, and oral hearings having been waived in accordance with the Rules, and having fully reviewed and considered the written documents submitted to me by the parties, each represented by counsel, do hereby, AWARD, as follows:

Claimant purchased and funded a prepaid debit card with Respondent. In this arbitration, he has asserted claims based upon an alleged breach of contract, violation of the Utah Consumer Sales Practices Act, and multiple violations of the Electronic Funds Transfer Act, Regulation E (12 C.F.R. 205). He also seeks recovery of attorney's fees and costs. Pursuant to the parties' agreement, Utah law applies.

Respondent asserted a counterclaim for attorney's fees and reallocation of arbitration costs to Claimant.

Analysis

1. Breach of Contract: Claimant contends that Respondent breached its agreements with him when it failed to credit him for allegedly fraudulent charges in the total amount of \$1,115.00. He contends that he first noticed the fraudulent transactions on June 4, 2018. In his Transaction Dispute Form, he identifies four fraudulent transactions that began in February of 2018 and were made intermittently through late May of 2018. Respondent asserts that it timely investigated Claimant's disputed transactions and concluded they were his for several reasons, including the facts that his PIN was used, there were no failed PIN entries during this lengthy time period, and he had previously made transactions with the same merchants. I find in favor of Respondent on the breach of contract claim because Claimant did not meet his burden of proof.
2. Violation of the Utah Consumer Sales Practices Act: Claimant asserts that Respondent engaged in deceptive or unconscionable practices concerning its claims handling and other practices and its willingness to refund fraudulent charges. Claimant has failed to prove this claim by a preponderance of credible evidence.

3. Violations of the Electronic Funds Transfer Act. Claimant asserts four violations of the Act. In Claim III, Claimant asserts that the Act was violated because there were unauthorized transactions in his account. On this claim, I find in favor of Claimant because the burden of proof is on Respondent and it failed to prove that the challenged transactions actually were authorized ones by a preponderance of the evidence. Claimant is awarded the total sum of \$1,450.00.

In Claim IV, Claimant asserts that the Act was violated concerning an improperly required affidavit/declaration. I find in favor of Respondent. Although Claimant asserts that Respondent improperly demanded an affidavit/declaration, the form that he actually filled out to dispute the charges was not an affidavit or declaration and did not call for an oath or notary signature. For this reason, I find in favor of Respondent.

In Claims V and VI, Claimant asserts that he did not receive an explanation of Respondent's findings concerning its investigation within the time permitted or with appropriate documentation. I find in favor of Respondent. It conducted its investigation timely and sent its determination – albeit a cursory one. Claimant did not provide sufficient evidence of any sufficient request for more detailed information. For these reasons, I find in favor of Respondent on these claims.

4. Attorney's fees and costs. Claimant is entitled to recover his attorney's fees based upon the successful Electronic Funds Act claim. A claim for \$3,937.50 is supported by a declaration. Although Respondent challenges the appropriateness of any fee award as well and the amount Claimant seeks, I hereby award Claimant the attorney's fees requested.

Accordingly, based on the foregoing:

- Claimant's breach of contract claim is denied.
- Claimant's claim of a breach of the Utah Consumer Sales Practices Act is denied.
- Claimant is awarded the total sum of \$1,450.00 under the Electronic Funds Transfer Act.
- Claimant is awarded \$3,937.50 in attorney's fees.
- Respondent's claims for attorney's fees and reallocation of the arbitration costs are denied on grounds that Claimant has prevailed on at least one of his claims.

The administrative fees of the American Arbitration Association (AAA) totaling \$1,000.00 shall be borne as incurred, 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.

Sept. 6, 2019



Patricia A Nolan, Arbitrator