

AMERICAN ARBITRATION ASSOCIATION

COREY THOMAS,)	
Claimant,)	AAA Case No.: 01-18-0003-2948
v.)	
GREEN DOT BANK,)	
Respondent.)	

AWARD OF ARBITRATOR

I, Robert L. Cowles, 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 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, Corey Thomas, and Respondent, Green Dot Bank, under which Claimant had a prepaid debit card issued by Respondent. Respondent placed a hold on Claimant’s card because it suspected fraudulent or illegal activity.

Claimant brings the following claims against Respondent:

1. Breach of Contract
2. Violation of the Utah Consumer Sales Practices Act

Claimant also brings the following claims against Respondent under the Electronic Funds Transfer Act, Regulation E, 12 C.F.R. 205:

3. Improperly Declined Transaction
4. Response Time – Notice of Error & Investigative Documents

Respondent, Green Dot Bank, asserts a Counterclaim for Respondent’s attorney fees and reallocation of arbitration costs to Claimant.

1. Breach of Contract

Respondent’s stated reasons for placing the hold, the length of time the hold was in place, and the failure to provide Claimant notice of the hold, were not reasonable under the terms of the agreement. Respondent had a contractual duty to close Claimant’s card account and remit the balance of funds, on request, which it failed to do. There is no legal justification for Respondent to retain the funds in perpetuity and enjoy a windfall.

Respondent also had a contractual duty to timely respond to both Claimant and Claimant's counsel's Notice of Error and request for investigative documents, which it failed to do. I find that Respondent breached its contract with Claimant.

2. Violation of the Utah Consumer Sales Practices Act

For the same reasons that Respondent was in breach of contract, I find that Respondent engaged in deceptive and unconscionable acts or practices in violation of the Utah Consumer Sales Practices Act.

3. Violation of the EFTA – Improperly Declined Transaction

Based on the evidence submitted, and Respondent's failure to timely provide copies of the Electronic Funds Transfer Report to Claimant's Counsel, I find that Respondent violated the EFTA by improperly declining a transaction. In this case, specifically, the electronic transfer Claimant attempted on January 20, 2018.

4. Violation of the EFTA – Response time – Notice of Error & Investigative Documents

Claimant's counsel sent Respondent a Notice of Dispute and Error, as well as a request for investigative documents. I find Claimant's Notice of Error sufficient and unambiguous in that Respondent was able to identify the error in question. In addition, I find the request for investigative documents sufficient under 12 C.F.R. 205.11 (b)(1)(iii), as requests for investigative documents are not subject to the same requirements of Notices of Error.

Regardless of whether the hold was originally justified on Claimant's Card, Claimant and his counsel both reported a valid Notice of Error, and Respondent had a duty to timely and properly respond under both the contractual agreement, and the EFTA, which it failed to do.

I find that Respondent violated the procedural requirements of the EFTA by failing to timely respond to the Notice of Error, and failing to provide copies of the investigative documents requested.

Respondent alleges 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 it is not. Respondent failed to both respond to Claimant's counsel's Notice of Dispute and Error, sent before the arbitration demand was filed, as well as failed to timely provide copies of Claimant's Card EFT report requested before Claimant filed the Opening Brief.

IT IS ORDERED:

1. Claimant, COREY THOMAS, is hereby awarded damages in the amount of \$3,300.00, the actual balance in Claimant's Card account at the time the hold was placed.
2. Claimant, COREY THOMAS, is awarded statutory damages in the amount of \$1,000.00, pursuant to 15 U.S.C. 1693 (m).

3. Claimant's attorney fees are hereby awarded in the amount of \$3,000.00, pursuant to 15 U.S.C. 1693 (m).
4. Respondent, GREEN DOT BANK'S, claims presented herein are DENIED.
5. All damages and fees awarded to Claimant, COREY THOMAS, shall be borne by Respondent, GREEN DOT BANK, and paid within thirty (30) days.
6. 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 in this Arbitration. All claims not expressly granted herein are hereby denied.

November 26, 2019

Date

Robert L. Cowles

Robert L. Cowles, Arbitrator