

AMERICAN ARBITRATION ASSOCIATION

CHRISTINA ROOD,)
Claimant,) AAA Case No.: 01-18-0003-3306
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, Christina Rood, and Respondent, Green Dot Bank, under which Claimant had a prepaid debit card issued by Respondent.

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. Unauthorized Transactions
4. Affidavit/Declaration of Fraud Requirement
5. Explanation of Findings
6. Response Time – Investigative Documents

Respondent asserts a Counterclaim for Respondent's attorney fees and reallocation of arbitration costs to Claimant.

1. **Breach of Contract**

I find that Respondent breached its contract with Claimant when it failed to credit Claimant for the unauthorized charges, failed to provide Claimant with a written explanation, and failed to provide Claimant the investigative documents upon request.

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. Unauthorized Transactions

The burden of proof is on Respondent to show that the transactions were in fact authorized, 15 U.S.C. 1693 (g). Respondent has failed to satisfy its burden of proof by failing to provide copies of the merchant confirmations, failing to provide evidence of undisputed transactions corroborating disputed transactions, failing to provide copies of the PIN reports showing any failed PIN attempts, and failing to provide the EFT reports which would show any declined transactions. I find in favor of Claimant that the disputed transaction were unauthorized.

4. Affidavit/Declaration of Fraud Requirement

12 C.F.R. 205.11(b)(2) provides that “a financial institution may require the consumer to give written confirmation of an error within 10 business days of an oral notice”. However, this does not give Respondent the right to require Claimant to sign an Affidavit/Declaration, as they did in this case. I find Respondent’s use of the Affidavit to be a violation of the Act.

5. Explanation of Findings

Under 12 C.F.R. 205.11(d)(1), a financial institution is obligated 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 its determination letter, Respondent informed Claimant that “[w]e have concluded that this is a valid authorized transaction and it will remain on your account”, without further explanation. Rather than providing Claimant with a written explanation of its findings, Respondent offered nothing more than a conclusory statement that failed to inform Claimant of any basis for denying the claim. I find in favor of Claimant.

6. 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 Respondent a request for the documents relied upon in the investigation and denial decision. Respondent failed to respond. I find the request for investigative documents sufficient under 12 C.F.R. 205.11(d)(1)(iii), as requests for investigative documents are not subject to the same requirements of Notices of Error. Respondent did not fulfill its statutory obligation to promptly provide copies of the documents upon Claimant’s counsel’s written request. I find in favor of the Claimant.

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 timely provide copies of Claimant's Card EFT report to Claimant's counsel as requested before Claimant filed the Opening Brief.

IT IS ORDERED:

1. Claimant, CHRISTINA ROOD, is hereby awarded damages in the amount of \$511.00.
2. Claimant, CHRISTINA ROOD, 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 shall be borne by Respondent 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

Robert L. Cowles

Date

Robert L. Cowles, Arbitrator