

The complaint

Mrs Q complains that UAB ZEN.COM (Zen) did not refund payments she lost to a scam.

What happened

Mrs Q was approached by a recruiter on a messaging service and offered a remote, flexible job she could do in her spare time. She had to complete a set amount of tasks per day, and she would receive commission, which would be paid in cryptocurrency. The tasks cost money to complete, and Mrs Q was asked to deposit her own money to complete the tasks. She made the following payments from her Zen account:

- 25/09/2023 - £2,230
- 26/09/2023 - £3,200
- 06/10/2023 - £2,690

Mrs Q attempted to withdraw her commission, but when she did the balance on her account disappeared. When her daughter became concerned and looked into the company, she realised she had been the victim of a scam and raised a claim with Zen in November 2023.

Zen attempted to recover the funds but was unable to receive the consent of the beneficiaries or the Lithuanian Authorities to do so. And they did not think they could have done more to prevent the scam in the circumstances so did not agree to reimburse Mrs Q.

Mrs Q referred the complaint to our service and our Investigator looked into it. They did not think the payments were so unusual or suspicious as to warrant intervention from Zen prior to them being processed. So, they did not think Zen needed to provide reimbursement. Mrs Q's representatives disagreed with the outcome. In summary they felt there was a clear pattern of fraud that should have been detected.

As an informal agreement could not be reached, the complaint has been passed to me for a final decision.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I'm satisfied Mrs Q has been the victim of a job scam, and I'm sorry she's had to go through this experience. This complaint is against Zen, and not the scammer, so I can only consider their actions in this decision.

In broad terms, the starting position at law is that an Electronic Money Institution ("EMI") such as Zen is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (in this case the 2017 regulations) and the terms and conditions of the customer's account.

It's not in dispute here that Mrs Q authorised the payments in question as she believed they

were part of a legitimate job opportunity. So, while I recognise that she didn't intend the money to go to scammers, the starting position in law is that Zen was obliged to follow Mrs Q's instruction and process the payments. Because of this, she is not automatically entitled to a refund.

The regulatory landscape, along with good industry practice, also sets out a requirement for account providers to protect their customers from fraud and financial harm. And this includes monitoring accounts to look out for activity that might suggest a customer was at risk of financial harm, intervening in unusual or out of character transactions and trying to prevent customers falling victims to scams. So, I've also thought about whether Zen did enough to try to keep Mrs Q's account safe.

I've reviewed Mrs Q's statements, and I can see she opened the account on the same day that she made the payments towards the scam. Because of this, there was no genuine account activity that Zen could compare the scam payment to. On balance, I don't think the value, or the frequency of the payments was sufficiently suspicious that I think Zen needed to intervene prior to them being processed.

I've taken on board Mrs Q's representative's comments that these were international payments. However, considering the type of account Mrs Q held with Zen, it was not unusual for it to be used for one off, higher value international payments, so I do think this lowered the risk level of the type of payments in question. I've also considered their comments about the checks Zen carried out in connection to the source of funds going into the account which they say were not good enough to detect the scam. But I'm conscious that the purpose of the conversation was around anti-money laundering concerns and not specifically about a scam risk. So I think it is reasonable Zen did not go into detail about any issues relating to outgoing payments on the account.

On balance, I just don't think the payments were unusual enough that I think Zen needed to do more in the circumstances, so I don't recommend reimbursement in the circumstances. I understand Zen has attempted to recover the funds but has unfortunately been unsuccessful, and I don't think Zen needs to take any further action to remedy this complaint.

My final decision

I do not uphold Mrs Q's complaint against UAB ZEN.COM.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs Q to accept or reject my decision before 25 October 2024.

Rebecca Norris

Ombudsman