

DECISION

Summary and outcome

- The complainant, Ms A, lived in Sydney. Her initial complaint made in January 2021 was with respect to the amount of approximately \$1,158.62. A recovery agency was seeking to recover that amount from Ms A in October/November 2020 and in discussions with them she was informed this outstanding amount related to an existing debt.
- Ms A was under the impression that in July 2020 she had paid all outstanding amounts on the debt owed to Linkt. There were a number of discussions between Ms A and the recovery agency in seeking to understand why she still owed an amount of \$1,158.62 to Linkt. As a general observation, there seems to be some confusion between the parties about the vehicles involved in the arrangement agreed between the parties in respect to the debt. Ms A thought the payment for the amounts owing was in respect to three vehicles, whereas Linkt considers the payment only related to two vehicles.
- In short, Ms A thought the settlement payment was in relation to vehicles E***D, B***Z and Y***J. In contrast, Linkt considered the settlement payment was only in relation to vehicles E***D and B***Z. Accordingly, Ms A thought that making such a payment put an end to the matter. She then suggested that she subsequently discovered the amounts paid by her were not in respect to the vehicle with the registration number Y***J.
- A part of Ms A's complaint was that she wanted to understand and be provided with a reconciliation in respect to the debt owing by her against the payment she had made. As a general observation, she suggests neither Linkt nor the recovery agency has been able to produce evidence to confirm their argument in respect to the outstanding debt.
- Linkt's position was that given the settlement payment by Ms A only related to two motor vehicles, she still had an existing debt with it for trips in vehicle Y***J. This amount has accrued for a number of trips matching to the account, along with some of the outstanding toll notices being transferred to the account.
- Linkt suggests there are 97 outstanding trips in respect to travel in the vehicle with registration Y***J.

Background

- The complainant, Ms A, first made a complaint to the Tolling Customer Ombudsman (TCO) on 13 January 2021. After the initial complaint there was a considerable amount of correspondence from the parties. Ms A sent a number of comprehensive submissions and emails in respect to this matter.
- Ms A, in an email dated 7 May 2021, suggested that:

“...I confirm I have spent months proactively trying to resolve this matter with Linkt, producing as much evidence as I possibly have available (which I strongly believe supports my case). In addition to all the evidence produced here, this is emotionally exhausting and time consuming and has caused me much stress and disruption.”
- The essence of the dispute was whether the payment by Ms A in July 2020 to Linkt covered two vehicles rather than three vehicles and, in particular, the charges in respect to the vehicle Y***J.
- Linkt, on 1 April 2021, in an email in respect to the vehicles covered by the payment stated:

“...[Ms A] mentioned having outstanding notices for Licence plate number (LPN) [B***Z] and [E***D], which were also listed on her Linkt account. Due to [Ms A’s] circumstances, our team offered to waive all administration fees outstanding for both vehicles and payment was made. A receipt was sent to [Ms A] confirming payment and this listed each LPN. LPN [Y***J] was not listed on this receipt as it was not included in the debt due to us being unaware at the time.”
- Accordingly, the Linkt view is that LPN Y***J was not disclosed at the time of the discussions between the parties. Moreover, Linkt suggests this vehicle was not on Ms A’s account, therefore the debt did not become part of the payment conversation between Linkt and Ms A.
- Linkt, in that email dated 1 April 2021, sought to explain and clarify the charges paid by Ms A in stating that:

“In addition to toll notice debt with Linkt, [Ms A’s] Linkt account was in arrears by \$933.77 and there were outstanding tolls with M5. I have provided a breakdown of the payments [Ms A] has mentioned below:

 - \$933.88 – 23/06/2020 – This payment covered [Ms A’s] account arrears.
 - \$562.26 + 656.52 – 07/07/2021 – This payment covered the reduced amount for tolls outstanding for LPN [B***Z] and [E***D].
 - \$519.14 – 24/07/2021 – Payment made to [Ms A’s] account to cover M5 tolls that [Ms A] requested to be transferred to her Linkt account and add credit to the account for future travel.”
- Linkt, in the email of 1 April 2021, also discussed the payment made by Ms A and stated that:

“...A receipt was sent to [Ms A] confirming payment had been made. This receipt included each individual LPN for which the payment covered. LPN [Y***J] was not listed on this receipt, as it was not included in the debt paid.”

- Ms A, in a response email on the same date, acknowledged that the receipt provided does indeed mention only these two number plates. However, Ms A suggested it was not reasonable for Linkt to rely on this receipt as its sole supporting evidence for its argument. She went further and suggests, as a customer, she maintained her position that she was assured by a Linkt employee during various discussions that her entire debt with Linkt was up to date. She maintains that during those discussions with Linkt representatives she most certainly discussed that the debt covered LPN Y***J. She also submitted, as a customer, it would then be unreasonable to expect that she needed to ensure that number plate was listed on the receipt. She suggested that upon receipt of the invoice in her inbox she was confident all of the debt had been cleared.

- Linkt, on 6 May 2021, provided a further response to Ms A. It stated that:

“I understand [Ms A] believed all of her debt had been paid and that registration [Y***J] was disclosed in her initial enquiry with our Linkt Assist team. Unfortunately we are unable to find evidence to support LPN [Y***J] having been provided at this time and the receipts sent after payment had been made, only listed [B***Z] and [E***D]. Had LPN [Y***J] been provided at this time, the amount payable would have been higher due to including all debt for this LPN and any payment confirmation we supplied would have included this registration on it.

...

We believe the offer to waive all administration fees is fair and reasonable based on the circumstances, as this only leaves [Ms A] to pay for trips she made on the toll roads. Had the toll invoices been transferred to a tolling account, the amount payable would have been higher than the offer we have provided, as it would include a transfer fee.”

- Ms A, in the email dated 7 May 2021, stated that:

“I propose this payment was indeed the payment made to clear the outstanding balance for LPN [Y***J] (exclusive of admin fees as agreed with Linkt)

I cannot fully explain the slight variation between the balance of \$1,158.62 Linkt claim to be the complete debt for LPN [Y***J] and the amount paid however I do recall [F] (the Linkt hardship operator assisting with the settlement at the time) advised me he would credit the cost of my tags which I had historically paid for back to the account, so this may have assisted in bridging this gap.

I also confirm I have looked in my folders and did not receive a receipt post payment for this amount, rather only receipts for the payments made in point two below.”

Current position of the parties

- Ms A stated she has paid off all the debt to Linkt and will not pay anything more. That is, Ms A rejects Linkt's offer of \$1,158.62 and she effectively refuses to pay any further amounts on the tolls and will not settle the matter if she has to make any further payments as proposed by Linkt as part of a settlement sum. Ms A considers that the Linkt offer of \$1,158.62 is not fair given the process she has gone through with Linkt over the various months since lodging the claim and, in particular, the agreement she had with Linkt in July 2020.
- Linkt states that whilst it understands Ms A is frustrated that this matter has taken so long to resolve and there was a misunderstanding on her part in respect to the settlement in July 2020, it considers all of the charges have been imposed on Ms A legitimately. These charges to Ms A are correct in view of her travel on the relevant toll roads for which Linkt is the toll operator and for the vehicles for which she is responsible for such travel. Linkt also suggests that whilst regrettably there was confusion on Ms A's part in respect to which vehicles were included as part of the July 2020 settlement, its position has been clear and the amounts outstanding and payable by Ms A have also been clear. Linkt also points to the fact it has reduced the amount outstanding from \$5,078 to \$1,158.62 and that is a substantial and significant reduction in the amount of \$3,920.
- Linkt considers that an offer of \$1,158.62 including a total reduction in administrative charges is a fair and reasonable offer.

Discussion

- When making a decision, I am required to examine all the available information and to reach an outcome which is fair to both parties and is based on the "balance of probabilities". This means that where the parties do not agree on an issue, I need to decide whether it is more likely than not that a particular event did, or did not, happen.
- From examining all the information and based on a review of what is fair in the circumstances, I am satisfied that the following is what most likely occurred.
- As a general observation, the matters relating to this decision were complicated by the fact that each party has a different view as to what vehicles were covered in the payment of July 2020 from Ms A to Linkt. This appears to be the reason why there has been some difficulty in resolving this matter.
- In my view, the crucial evidence in this case is that both Ms A and Linkt admit that the receipt provided by Linkt to Ms A in respect to the payment in July 2020 only referred to two vehicles and not to vehicle [Y***J]. In an email dated 1 April 2021, Ms A admits that the receipt provided by Linkt in respect to the payment only relates to the two vehicles, not three vehicles. I note of course that Ms A states that the receipt does not correctly reflect the basis and nature

of her discussions with Linkt staff about the payment and she does not agree with the receipt. I do consider, on the evidence, this is her honest belief. However, I do not agree with her assertion that it is unreasonable for Linkt to rely on the receipt as evidence supporting its contentions.

- Linkt has offered a reduction on the total amount from \$5,078 to \$1,158.62 and that is a substantial reduction in the amount of \$3,920. This is a significant reduction of the administrative charges. Linkt understood that Ms A was not satisfied with the disclosure process in respect to the amounts owed and hence made the current settlement offer of \$1,158.62 as a goodwill gesture.

Determination

- I am satisfied that, in the circumstances, Ms A has not established grounds for her complaint against Linkt. Ms A is not disputing the charges that have been validly incurred for the many trips she has taken; merely disputing that her payment made in July 2020 covered three vehicles rather than two vehicles.
- In my view, the confusion largely involves a misunderstanding by Ms A as to what the debt that was being paid covered and, more particularly, what vehicles were covered pursuant to the payment of the debt to Linkt.
- However, I would encourage Linkt to continue to be vigilant in respect to being clear with customers regarding amounts outstanding and the basis of the charges imposed. In addition, this includes making absolutely clear to customers who are paying off debts what the payment covers generally but, more particularly, if there are various vehicles involved in disputes, which vehicles are subject to the payment and which are not.
- On the basis of the analysis above, I am satisfied that the settlement offer of \$1,158.62 proposed by Linkt is fair and reasonable in the circumstances. This is particularly the case given Linkt has substantially reduced the amount of the administrative charges. I do acknowledge Ms A considers that the original payment covered the three vehicles and she has not deviated from that position. However, given Ms A presently has financial difficulties due to COVID-19 and the matter has gone on for some while, I would recommend an appropriate payment plan should be agreed with Ms A in these circumstances.
- I remind the parties that under the TCO process, my decision is not binding on Ms A and that she can seek relief in any other forum.
- In making this Determination, subject to the comments above, I note that the manner in which Linkt's resolution team has engaged with Ms A in respect to the issues in dispute and this complaint more broadly, has been clear, transparent and conciliatory. This is evidenced by their approach to the reduction in administration charges and the involvement of the hardship section of Linkt in respect of the dispute.

- When responding to consumers, complaints management staff have a responsibility to properly investigate the matters being raised and provide clear responses, supported by relevant evidence. In my view, the Linkt resolution team has reasonably discharged this responsibility in the present circumstances.
- I note that Ms A has acted in good faith in relation to this matter and acknowledge she had an honest belief that the payment covered three not two vehicles. She has been clear, thorough and constant in her communications with the TCO and Linkt during this process.

Phillip Davies
Tolling Customer Ombudsman

Dated: 16 July 2021