

## DECISION

### Summary and outcome

1. The complainant, Mr AW, states that Linkt Sydney (Linkt) has incorrectly established a direct debit facility on two of his credit cards to auto top-up an account linked to a vehicle driven by a Ms SJ. Linkt have refused requests to transfer the account to Ms SJ. Mr AW seeks the account owner to be changed to Ms SJ and the amount owing on the account to be adjusted and notified to her.
2. Linkt Sydney advises that:
  - a. the relevant vehicle is registered to Mr AW and in the absence of Ms SJ contacting Linkt to confirm the transfer of the account, the transfer cannot be processed. In addition, an outstanding balance of \$929.29 would need to be addressed.
  - b. there are outstanding debts (to Linkt and a collections agency) on the account which, after an offered reduction, amounts to \$3,312.84.
  - c. the relevant account (ending 18) did not have an auto top-up established and all payments were made manually. However, a second account (ending 27) held by Mr AW did have an auto top-up established for one of the cards. This account was closed, the facility was cancelled and the balance on the account refunded.
3. The

### Background

4. The complainant, Mr AW, first made a complaint to the TCO Tolling Customer Ombudsman (TCO) on 10 September 2019.
5. After the initial response from Linkt to the TCO complaint on 1 November 2019, Mr AW advised in response that as he doesn't trust Linkt he wouldn't have set up an auto top-up facility, although he accepts that an auto set-up was established with Roam prior to its transition to Linkt.

## Current position of the parties

6. Despite following up on progress on several occasions, Mr AW has not provided any substantive response to Linkt's email of 1 November 2019 and has maintained his initial position.
7. On 9 November 2019, he advised the TCO that he would shortly provide information from his card services provider to evidence the establishment of the auto top-up facilities. This has not been produced however.
8. Linkt's position remains as it was on 1 November 2019.

## Discussion

9. 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.
10. In the Complaint Form, Mr AW also stated that he was seeking:

*Account name transfer. Acknowledging credit card fraud. A proper up to date statement mom is admin fees because the account is only behind because linkt customer phone keeps giving false amount that is owed on this account. When I get customer service on the phone and get a figure (Ms SJ) or I pay it. (verbatim)*

## Account ownership

11. With the exception of stating that Ms SJ left a voicemail for Linkt on 5 August 2019 accepting ownership, Mr AW has not provided any evidence of Ms SJ's contact with Linkt, nor has Ms SJ contacted the TCO to confirm Mr AW's submission.
12. Despite Mr AW's submissions to the contrary, Linkt maintains that Ms SJ has not contacted them to confirm transfer of the account. They have provided contact sheet summaries from around the time that he claims she contacted them. These show only contact with Mr AW in which Linkt confirms that no contact had been made by Ms SJ and notes the advice provided about the steps that would need to be taken to effect the transfer.
13. The operation of the toll road system in NSW applies fees to the account holder in respect of nominated vehicles. A Nominated Vehicle is a vehicle which the account holder has asked to link to their account and is registered on the Linkt Register. There is no submission that the relevant vehicle was not associated with Mr AW's account at the time of travel (and thus at the point that the relevant tolls were incurred).

14. In the absence of any submissions to the contrary, I accept that Mr AW was not the driver of the relevant vehicle at the relevant times and his submission that the driver was Ms SJ. However, Linkt is entitled to impose tolls and fees against the owner of the account linked to the nominated vehicle.
15. As Ms SJ has not accepted ownership of the account, it cannot, as a matter of contract, be transferred to her in the absence of her consent. I also cannot compel her to accept ownership of the account as she is not subject to this scheme.
16. As a result, I cannot instruct Linkt to transfer ownership of the account. I note though that Mr AW could have advised Linkt that the relevant vehicle should be removed from his account, but has not done so.

### Credit card fraud

17. By 'credit card fraud', I understand Mr AW to mean the incorrect establishment of the auto top-up on account x18 linked to either 2 of his credit cards (as per the Complaint Form) or 3 (as per his email of 1 November 2019).
18. Linkt advises that account x18 did not have an auto payment set up and all payments were made through the call centre or manually online. Account x27 did have such a facility set up in 2008 (under Roam) but the account was closed in early November 2019 and a balance of \$49.45 refunded.
19. Mr AW has not provided the information that he stated was available from card services to demonstrate the auto top-up facilities had been established and refunded. In the absence of any documentary evidence, I am unable to determine that there ever was such a facility.

### Outstanding amounts

20. Mr AW stated that when he is given a correct amount, either he or Ms SJ pays the amount owing.
21. Linkt has set out the amounts owing, after an offered reduction, as follows:
  - a. Account x18 - \$694.19
  - b. Credit agency - \$1,089.42
  - c. 141 notices - \$1,529.23

Total amount owing \$3,312.84 (a reduction of \$2,055.85).

22. In the circumstances, I accept these figures as the current outstanding debt which, if paid by Mr AW, will clear all debts as at the time of this determination. In the event that Linkt attempts to impose any further amounts arising prior to 22 November 2019 against Mr AW's accounts, he will be entitled to rely on this determination as a basis why they are not owing.

## Determination

23. I am satisfied that, in the circumstances, Mr AW has not established his complaint against Linkt, despite being given the opportunity to do so.
24. For the reasons set out above, the account transfer cannot be ordered and credit card fraud has not been demonstrated.
25. In the absence of the offered reduction by Linkt, I would have found that Mr AW owed the full \$5,368.69 outstanding on the account. However, the offer was put forward as an attempt to resolve the complaint and so it is fair that the revised amount of \$3,312.84 is the adjusted outcome.
26. I suggest that Mr AW and Ms SJ find a time to call Linkt Customer Support and work through the transfer process together, as recommended during the course of this complaint.
27. I remind the parties that under the TCO Tolling Customer Ombudsman process, my decision is not binding on Mr AW and that he can seek relief in any other forum.

**Nicolas Crowhurst**  
**Interim TCO Tolling Customer Ombudsman**

**Dated: 22 November 2019**