

DECISION

Summary and outcome

- The complainant, Mr C, lived in Sydney. His initial complaint made in 2019 was about the suspension of his account. He then lodged the current complaint on 16 June 2021 following contact by a debt collector for an outstanding amount in respect to Toll Notices received from Linkt.
- Mr C suggests Linkt suspended his account unfairly on two occasions and that has led to the difficulties he has had with the tolls and toll operator in both 2019 and 2021.
- Presently, Mr C owes an amount to Linkt of \$1,074.97 for trips taken when his account was suspended and this amount does not include any administration charges attached to the initial tolls.
- Linkt's position was that Mr C had undertaken trips when his account was suspended and he has not paid for them, and the decision to suspend the account in the first place was both reasonable and appropriate. Linkt notes that Mr C has never paid for the amount outstanding in respect to the 2019 dispute. Linkt's position in respect to the offer is that it has waived any charges in relation to one of the vehicles. However, in respect to the other vehicle, there is an outstanding amount of \$922.91 and Mr C's account is currently suspended with an outstanding amount owing of \$152.06.

Background

- The complainant, Mr C, first made a complaint to the Tolling Customer Ombudsman (TCO) in 2019 in respect to the suspension of his account and outstanding payments. In this current complaint, Mr C on 16 June 2021 made a complaint to the TCO in respect to the suspension of his account and outstanding toll fees.
- The view of Mr C is that he has had his account suspended wrongfully in 2019 and 2021 and that he should not have any outstanding amounts payable to Linkt. He also suggests that Linkt's systems are cumbersome and not effective and this is the primary reason for the present dispute.

- In his application to the TCO, Mr C stated that:

“When I was initially charged this ridiculous amount of money on my account I called Linkt to get some clarification and I was asked to email them my query and which I did and never got a response. Having looked at the history on the account, it seems these charges are from 2018 which were then charged against my account in February. I have had a bank account against my toll account which links has been using to top up my account. Why is it that they were able to top up my account for this whole time and without putting these charges against my account and then randomly add them to my account in February some 6 months later?”

- Mr C then stated:

“Please note I have raised this issue before and no explanation was given or records of where the supposed debt originated from. I stopped putting money on my account as I was not going to pay for random toll figures added to my account.”

- Linkt, on 30 June 2021, stated that:

“[Mr C’s] account is currently suspended with an outstanding balance of \$361.58. The account has been suspended since 8 April 2019.

 - The amount reflects transferred toll notices for travel incurred in 2018/19 that has been automatically transferred to the account.
 - The toll notices were issued due to the account being suspended multiple times, please refer suspension dates below
 - o 21 February 2018 – 10 March 2018
 - o 7 July 2018 – 14 July 2018
 - o 9 August 2018 – 3 November 2018
 - o 18 November 2018 – 1 December 2018
 - o 26 February 2019 – 11 March 2019
 - o 8 April 2019 – Current”

- Linkt, in that email on that date, continued by stating that:

“... Toll Notices in NSW are automatically transferred if there’s an active tolling account with the same vehicle listed for the travel periods. I understand [Mr C’s] frustration with this process, however it’s in place to prevent possible escalation to debt collectors or Infringements. The Toll Notices were also transferred with a reduced administration fee of \$1.10 - \$2.90 instead of \$10.00 - \$20.00 per notice depending on the toll.”

- Linkt also sought to set out the basis for settlement:

“In addition to the outstanding account balance of \$361.58, there are also outstanding Toll Notices for travel with the vehicles [B***Z] and [D***E]. As a goodwill gesture, I can offer a reduction on the administration fees of \$10.00-\$20.00 per notice to a transfer fee of \$1.10-\$2.90 depending on the toll road used. This will reduce the total outstanding for the vehicle [B***Z] from \$3219.88 to \$907.98, and the total outstanding for the vehicle [D***E] from \$658.69 to \$231.09. If [Mr C] would like to accept this reduction, he can contact the Linkt Customer Resolution team...”
- Mr C, in an email dated 30 June 2021, stated the vehicle with the registration [D***E] is not his vehicle and should be removed from his account immediately.
- Linkt on 2 July 2021 responded to Mr C’s email dated 30 June 2021:

“I confirm the vehicle [D***E] has been removed from [Mr C’s] account. Can I please also confirm when [Mr C] sold this vehicle so I’m able to provide a revised figure for the outstanding Toll Notices?

...

The reason [Mr C’s] account became suspended was due to auto-payments being rejected due to insufficient funds. We also sent email notifications to advise of the payment failures, overdue account and account suspensions.”
- Mr C, in a further email dated 2 July 2021, suggested that he never owned the vehicle [D***E]. Accordingly, he was of the view that Linkt should remove any associated costs to him in respect to that vehicle and the costs should be charged to the rightful owner of the vehicle. In his view, Linkt has therefore randomly added toll charges to his account and this is why he did not top up his account.
- Linkt, on 5 July 2021, replied:

“The vehicle [D***E] was added to [Mr C’s] account on 11 March 2019 via the Linkt website. I removed this vehicle on 2 July 2021 however the last trip to charge for this vehicle was in September 2018. The trips were charged to the account correctly as the vehicle was listed, however if [Mr C] isn’t the owner then he can disregard any Toll Notices issued separately for this vehicle.

The 2019 statement does show payments, [Mr C] can find this under ‘Payment – thank you’ in the daily charges listing. I’ve also attached additional statements showing charges in 2017 and 2018.”
- Mr C, in an email dated 5 July 2021, reiterated that the vehicle [D***E] was not his and indicated that he never owned this vehicle.

- He asked also:

“Can you explain to me how I could have had outstanding tolls to pay in 2019 from 2018 if my account was being debited automatically.

This makes absolutely no sense considering the automatic debit function was set in place to ensure that no ridiculous balance like the one fabricated will be incurred on the account. As of April 2019 I made sure there were no funds in my account...

If your systems failed to recognise outstanding fees for a complete year the burden should not lie on me as the customer as it defeats the purpose of me having a debit function on my account.

Please have this fabricated amount waived off my account and also remove the random car on my account also. Once this done we can then look to mitigate any outstanding debt since 2019 and how this can be addressed...”

- Linkt replied on 7 July 2021 to the email of Mr C dated 5 July 2021:

“I confirm the vehicle [D***E] has been removed from the account already. When a vehicle is added to an account, trips will charge to that account (while it remains active) until the vehicle is removed. [Mr C] is responsible for payment of the trips made by the vehicle [D***E], however in order to reach a resolution and as a goodwill gesture, I've applied a credit of \$169.52 to his Linkt account for all trips charged for this vehicle. This brings the outstanding Linkt account balance to \$192.06.

The reason Toll Notices were issued was because [Mr C's] account was suspended due to an outstanding balance. The account fell into arrears as the autopayment was rejected repeatedly. Emails were issued to [***@gmail.com] (the email listed on the account at the time) to advise of the payment failures on the following dates: 23 January 2018, 18 February 2018, 19 June 2018, 4 July 2018, 16 July 2018, 1 August 2018, 14 November 2018.”

- Mr C replied by return email on 7 July 2021 and stated:

“Once the account was activated, how come the debt was not reconciled then? Why did it take a year to reconcile the account ?. The onus is on them to ensure they charge me correctly and my responsibility will be to pay accordingly. I will not accept to pay for a charge that is more than a year old simply because you guys "forgot to charge it" and chose to spring it up on me.

Your goodwill should extend to wiping anything prior to 2019.”

- Linkt responded to the email on the same date and suggested that Toll Notices are issued separately if there is no active account. Linkt did not forget

to charge the trips, these were issued separately as Mr C's account was suspended on the dates of travel.

- Linkt also noted in that response that through Mr C's previous TCO complaint in 2019, in its view, he was aware of this debt, however, payment was never made.
- Finally, Linkt also suggested that the reductions and credits applied already by Linkt should be considered as a fair and reasonable outcome.
- Mr C responded to that email on 8 July 2021 that he never agreed to this in 2019 and he would not agree to this offer now. In his view, the moment his account became active any outstanding tolls should have been added to his account. He suggested that Linkt's systems and processes are broken and he would not pay due to that fact and should not be made to pay outstanding amounts because of Linkt's broken system.

Current position of the parties

- Mr C stated that he does not want to pay the outstanding amount of \$1,074.97, albeit that Linkt has agreed to not impose any administration charges in addition to the initial toll charges.
- Linkt states, whilst it understands Mr C is frustrated that this matter has taken some time to resolve, it considers all of the charges imposed have been imposed on Mr C legitimately. These charges to Mr C are correct in view of his travel on the relevant toll roads for which Linkt is the toll operator. Moreover, the suspension of Mr C's account was appropriate and reasonable in the circumstances.
- Linkt considers its offer of Mr C paying the outstanding amount of \$922.91 without imposing administration charges is reasonable in the circumstances. It notes that the Toll Notices relate to trips between 24 June 2016 and 3 July 2021. Mr C's Linkt account is currently suspended with an outstanding balance of \$152.06. This outstanding amount will need to be paid in full to reactivate the account.

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 Mr C was trying to deal with both the issues that arose in 2019 and the similar issues that arose in 2021.
- In my view, the crucial evidence in this case is that Linkt has established the outstanding amount owed by Mr C arose in relation to toll trips taken when his toll account has been suspended. Having said that, the evidence supports that it was an honest mistake by Mr C, who misunderstood the arrangements and obligations he had to the toll operator when his account was suspended and he thought the cause of the problem was the Linkt systems and processes. In my objective view, Mr C has not adduced any evidence that shows in any way that the Linkt system is not working properly and the system was the cause of the outstanding amounts.
- Linkt has offered to waive any administration charges on the outstanding tolls owed by Mr C to Linkt for toll road travel as a goodwill gesture, as well as waiving all charges for the vehicle [D***E]. Linkt is effectively charging for the toll road use for vehicle [B***Z].

Determination

- I am satisfied that, in the circumstances, Mr C has not established grounds for his complaint against Linkt in respect to this matter.
- In my view, the dispute largely involves a misunderstanding by Mr C as to the circumstances where Linkt can suspend an account and the requirements of payments by the customer where he travels on toll roads when the account is suspended. It has not been established in the present circumstances that in Mr C's words the Linkt system is broken and that was the cause of the outstanding payments.
- I remind the parties that under the TCO process, my decision is not binding on Mr C and that he 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 Mr C in respect to the issues in dispute and this complaint more broadly, has been clear, transparent and conciliatory. This is shown by the fact that Linkt has waived administration charges and provided a goodwill gesture in respect to one of the vehicles.
- 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 Mr C has acted in good faith in relation to this matter and acknowledge that he had an honest belief that he had satisfied his obligations appropriately to the toll operator. He has been clear, thorough and constant in his communications with the TCO and Linkt during this process.

Phillip Davies
Tolling Customer Ombudsman

Dated: 29 November 2021