

## DECISION

### Summary and outcome

- The complainant, Mr G, lives in Queensland. Mr G has suggested that he had been asked by Linkt Queensland (Linkt) to pay an outstanding amount of \$830 in fees when he genuinely thought he had updated his credit card details with Linkt. Mr G considers that it is unfair for Linkt to charge this amount when he maintains that on going through toll stations when travelling on the toll roads he could hear 3 beeps from the Tag he had in his car. He took this as meaning the Tag was working when he went through the toll station. He vigorously argued that he did not realise his account had been effectively suspended.
- Linkt's position was simply that Mr G had not topped up his account where appropriate, but was still using the toll roads. Therefore, the account of Mr G was suspended as tolls were not being appropriately paid for.

### Background

- Mr G first made a complaint to the Tolling Customer Ombudsman (TCO) on 6 July 2020. After the initial complaint there was a considerable amount of correspondence between the parties.
- Linkt provided a substantive response to Mr G's complaint on 23 July 2020 stating that:

"I spoke to [Mr G] over the phone on 15th July regarding his enquiry.

I clarified with [Mr G] that his credit card details had expired and that 3 beeps indicates a low balance whilst 4 beeps indicates his account is suspended.

To resolve the matter I extended the due date of the outstanding toll invoices to 12/08/20 which will be extended further as required and I've removed the administration fees incurred on the toll invoices to reduce the debt down from \$827.11 to \$445.83.

[Mr G] has agreed to make weekly payments of \$50.00 for the outstanding toll invoice debt starting Friday 17th July.

[Mr G's] Linkt account remains suspended as payment has not yet been received. I suggested he update his credit card details over the phone with me and pay off the outstanding balance on his Linkt account to reactivate the account however [Mr G] declined and advised he would update this himself online. I note that since we last spoke, the credit card details have been updated however the account remains suspended and the owing balance has now increased from \$184.26 to \$242.97 due to recent trips charged to the account. I tried to Call [Mr G] back to discuss this after a missed call from him however I wasn't able to reach him and have emailed him.

It is recommended that the account balance be paid ASAP to reactivate the account and to avoid further toll invoices being incurred. Should [Mr G] require additional time to make payment towards the account debt, please advise the length of time and repayment amounts ASAP so that a payment plan can be put in place."

- In a further email from Linkt on 30 September 2020, Linkt suggested that Mr G will need to login to his account and make the payments manually. If the matter is not settled by the time the suspension hold expires, the account will become suspended and further Toll Invoices will be issued. Toll Invoices may progress to debt collection agencies or Penalty Infringement Notices.
- Mr G, in an email dated 20 October 2020, stated that he was pushed to put in place a payment arrangement without consideration that he had paid so many administration charges previously and that is unfair.
- In an email dated 20 October 2020, Linkt stated that:

"In regards to the payment arrangement previously agreed to with [Mr G] it appears this has been broken as no payment was received last week, and [Mr G] continues to travel on the toll roads. In order to assist [Mr G], I'll halt any pending suspensions on his account however he will need to maintain the agreed payments of \$70.00 per week, and limit his travel on the toll roads until the debt is settled. Toll Notices are issued separate to an account when there is no valid tolling arrangement in place."

## Current position of the parties

- Mr G, whilst appearing to agree to the settlement amount proposed by Linkt and an instalment payment plan, has not made payments under that instalment plan. It is not entirely clear why this is now Mr G's position, apart from the fact that he states he is tired of Linkt imposing administration charges on unpaid tolls and these administration charges are excessive. He also stated that he feels he was "pushed" into the instalment payment plan, even though Mr G does not provide any evidence of this claim.
- Linkt understood that they had a prior agreement with Mr G on the amount that he would pay, albeit that it was to be paid in instalments under a payment instalment plan agreed to by Mr G. Subsequent to the agreement, Mr G has not complied with the terms of the payment plan.

- Linkt considers that an offer of \$445.83 excluding 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.
- There was initially essentially an agreement between the parties in relation to settling the matter and a payment instalment plan instigated by the two parties. Regrettably, it appears on the evidence that Mr G has not satisfied his obligations under the agreement between the parties by not making payments under the instalment plan. In addition, it appears that Mr G has failed to top up his account and continues to use the toll roads.
- Linkt has offered a reduction on the total amount from \$827.11 to \$445.83. This is a reduction of \$381.28. Once again, I note that initially Mr G agreed to pay that amount of \$445.83 to settle the matter.
- It should be noted that Mr G subsequently suggested, only after non-payment of instalments under the payment plan, that he was pushed into the payment instalment plan and this was unfair because of the amount of administration fees he had paid to the toll operator over the years.

## Determination

- I am satisfied that, in the circumstances, Mr G has not established grounds for his complaint against Linkt. Mr G is not disputing the charges that have been validly incurred for the many trips he has taken; merely disputing any charges over and above those which he should have to pay for using the toll roads. I also consider that Mr G's claim that he was "pushed" in agreeing to the payment instalment plan is not established on the evidence.
- On the basis of the analysis above, I am satisfied that the settlement offer of \$445.83 proposed by Linkt is fair and reasonable in the circumstances. This is particularly the case given it has substantially reduced the amount of the administrative charges. I note in this regard that at one stage in this process Mr G agreed with the proposed settlement amount by Linkt with payments to be made under an instalment payment plan.
- I remind the parties that under the TCO process, my decision is not binding on Mr G and that he can seek relief in any other forum.

- In making this Determination, I note that the manner in which Linkt's resolution team has engaged with Mr G in respect to the issue in dispute and this complaint more broadly, has been clear, transparent and conciliatory. This is evidenced by their approach to the payment instalment plan set up for Mr G. I am disappointed that Mr G, I understand, has not complied with the instalment payment plan and I also understand has not provided any valid and verifiable explanation for not complying with the plan. I note also in this context that Linkt, in its email of 20 October 2020, noted that it would halt suspensions on Mr G's account provided he made the payments under the instalment plan and he limited his use of the toll roads until the debt was extinguished.
- 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.

**Phillip Davies**  
**Tolling Customer Ombudsman**

**Dated: 12 November 2020**