

DECISION

Summary and outcome

- The complainant, Mr M, lived in Brisbane. His complaint made to the Tolling Customer Ombudsman (TCO) on 18 January 2022, was about charges imposed by Linkt and the methods by which Linkt seek to recover those charges. The dispute Mr M suggests is due to Linkt incorrectly attributing travel on a toll road, where Mr M maintains he was not travelling in his car on the toll road on that particular day. Mr M suggests that constant contact by the Linkt debt collection operatives for the outstanding amounts and generally dealing with Linkt has been very stressful for him. Mr M has been in continual contact with the TCO over the last few months by telephone and by email in relation to these matters.
- Mr M is concerned that Linkt has incorrectly imposed tolls on him on one occasion but is concerned that it may happen again subsequently. Moreover, Mr M has suggested that Linkt has been applying constant pressure by way of numerous letters/telephone calls requesting repayment by Mr M.
- Presently, Mr M owes an amount to Linkt of \$174.20 for trips before any settlement offer.
- Linkt's position was that its dealings with Mr M commenced in November 2021 and that there had been significant communications between Mr M and Linkt from this time until the date of lodging his complaint with the TCO on 18 January 2022. Linkt also suggests it has continued, after the complaint was lodged with the TCO, to engage appropriately with Mr M to resolve the dispute.
- The Linkt offer of settlement involved a reduction on the administration fee to certain travel fees and also the waiving of a couple of trip fees. Linkt has suggested that all of its dealings with Mr M have been appropriate. Linkt considers that its settlement offer is fair and reasonable in the circumstances.

Background

- The complainant, Mr M, first made a complaint to the TCO on 18 January 2022, but the dispute is in respect to matters going back to August 2021. However, the focus of the dispute for Mr M is a trip on the toll road on 13 January 2022 which he denies taking. The overall dispute raised by Mr M involves certain amounts outstanding for toll road use, his interactions with Linkt and the processes of Linkt in seeking to recover outstanding amounts from consumers.
- The view of Mr M is that Linkt should justify why he has been charged for a trip on 13 January 2022. He also suggests that Linkt's systems are cumbersome, not user friendly and not effective and this is one of the reasons for the present dispute continuing for a number of months. In particular, Mr M considers that Linkt, as a result of its error and processes, has complicated the matter and made payment of the outstanding amount and ultimately settlement more difficult. Mr M has also alleged that Linkt has "doctored" a photograph that it says establishes Mr M's vehicle was travelling on the toll road on 13 January 2022.
- In his application to the TCO, Mr M stated that:

"on monday 10th jan i used linkt n i paid it..but thats not in question here..

i received a further notice to pay identical trip on 13th jan 22...i did NOT use the road at this date..i refuse to pay what i never used...

the problem with linkt is far too short time to pay.im a pensioner n get paid every 14days..sometimes that puts me past their due by date n i get further penalties just for being on pension..past due by it refuses to accept payment on comp

if linkt was truly understanding they would make it 21 days that would fit my 14 days in perfectly...

also linkt are so slow.. i had to wait from august to nov to get corrected number to pay august.....the september bill im still waiting for same thing.. all because they dont accept after due date....

on the 13th jan 22 i did not drive their road and i dont cruise their roads for fun..i will not pay for 13th jan 22"

- Linkt, on 2 February 2022, suggested in response to Mr M that:

"There are currently four outstanding Toll Notices issued for vehicle [7***V] (QLD).

LTI [***716] issued for travel on 23 August 2021 - owing - \$58.21

LTI [***187] issued for travel on 13 September 2021 - owing - \$49.67

TI [***790] issued for travel on 10 January 2022 – owing - \$33.16

TI [***889] issued for travel on 13 January 2022 – owing - \$33.16

In recognition of [Mr. M's] experience and as a gesture of goodwill, I've cancelled Toll Notices [***716] and [***187] in full and have waived the administration charges in full for the Toll Invoices [***790] and [***889] issued for travel in **January 2022**, reducing the outstanding amount to \$48.44."

- The parties then had correspondence through the TCO in respect to photographs provided by Mr M of the vehicle and its licence plates to make sure the Linkt action to impose toll charges on Mr M for travel on 13 January 2022 was appropriate.
- After discussions with the TCO and providing photographs to Linkt, Mr M wanted evidence from Linkt that his car was travelling on the toll road on 13 January 2022.
- On 22 February 2022, Linkt sent an email to the TCO to be forwarded by the TCO to Mr M:

"Thank you for forwarding [Mr. M's] follow up correspondence through to us.

I've reviewed the images forwarded by [Mr M] and confirm the images captured on our system are of the same vehicle. I've attached the images captured on Linkt system for your and [Mr M's] reference.

As advised in my previous email, as a gesture of goodwill, administration fee for Toll Notice [***889] has been waived in full. [Mr M] can settle the above-mentioned Toll Notice by paying the trip cost only of \$24.22 by 14 March 2022."

- Mr M then reviewed the Linkt photographs referred to above and subsequently sought to challenge the Linkt photographs and them being the basis of Linkt's decision to impose charges on Mr M for travel on 13 January 2022.
- Mr M, in a series of emails from 21 February to 5 March 2022, suggested that the Linkt photographs had been altered or "doctored" by Linkt.
- In an email from Mr M to the Ombudsman dated 21 February 2022, he stated:

"finally ive heard lots of stories from friends that linkt has tried to screw..modifying images is one storey i heard...i believe they are doing that to me in my opinion"
- In an email from Mr M to the Ombudsman dated 28 February 2022, he stated:

"dear Philip. those images from linkt are from the 10th when i was there.. theyve in my opinion linkt doctored the data at bottom of pic n claimed i was there on 13th.. I WAS NT THERE ON 13TH..."

- In a further email to the Ombudsman on 2 March 2022, Mr M stated that:
 - “i,im a pic taker n i modify them easily in photoshop and im suggesting thats what theyve done..they sent me a pic of my car YES THATS ME. but no data on bottom..any magistrate would throw it straight out.you sir would agree no data no date pointless exercise”
- Linkt refuted any allegation of tampering with the Linkt photographs on 10 or 13 January 2022 or any inappropriate behaviour.

Current position of the parties

- Mr M stated that he does not want to pay the outstanding amount of \$24.22 albeit that Linkt has agreed to not impose any administration charges in addition to the initial toll charges.
- Linkt states, whilst it understands Mr M is frustrated that this matter has taken some time to resolve, it considers all of the charges imposed have been imposed on Mr M legitimately. These charges to Mr M are correct in view of his travel on the relevant toll roads for which Linkt is the toll operator. It considers the email setting out its interactions with Mr M during 2021-2022 indicates its desire to seek to assist Mr M and ultimately settle the dispute. Linkt categorically denies amending or varying any evidence or material relating to Mr M.
- The offer of Linkt to Mr M was as follows:
 - [Mr M] can settle the above-mentioned Toll Notice by paying the trip cost only of \$24.22 by 14 March 2022.”
- Linkt considers its offer of Mr M paying the outstanding amount of \$24.22 without imposing administration charges as well as reducing the overall debt is reasonable in the circumstances.

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 M was trying to deal with all of the issues that arose in 2021 and 2022.
- In my view, the crucial evidence in this case is that Linkt has established the outstanding amount owed by Mr M arose in relation to the toll trip taken by Mr M on 13 January 2022. In my objective view, Mr M has not adduced any evidence that shows in any way that the Linkt system is not working properly and that Linkt has altered or varied any of the documentary or photographic evidence relating to Mr M or his travel on the toll roads.
- Linkt has offered to waive administration charges on the outstanding tolls, waived certain toll fees and has reduced the amount payable by Mr M by a considerable amount.

Determination

- I am satisfied that, in the circumstances, Mr M has not established grounds for his complaint against Linkt in respect to this matter.
- In my view, the dispute largely involves a particular view from Mr M as to the way Linkt went about establishing the circumstances where it determined that Mr M's vehicle was travelling on the toll roads on 13 January 2022. It has not been established by Mr M in the present situation that the Linkt system is not working and was not applied appropriately and correctly by Linkt. In my objective view, there is no evidence to suggest Linkt has "doctored" any of the materials in respect to Mr M travelling on the toll roads on any occasion.
- I remind the parties that under the TCO process, my decision is not binding on Mr M 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 M 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 has continually been in contact with Mr M during 2021 and particularly 2022.
- 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 M had an honest belief he had satisfied his obligations appropriately to the toll operator in respect to travelling on toll roads and all of his trips taken on the toll roads. He has been in constant communications with the TCO and Linkt during this process.

Phillip Davies
Tolling Customer Ombudsman

Dated: 29 April 2022