



CCTS
COMMISSIONER FOR COMPLAINTS
FOR TELECOMMUNICATIONS SERVICES

HOWARD MAKER COMMISSIONER

P.O. Box 81088, Ottawa, ON K1P 1B1

August 15, 2012

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] (Bell Canada)
5115 Creekbank Rd., 2W,
Mississauga, ON
L4W 5R1

RE: Complaint CCTS #151092

On July 20, 2012, we issued a Recommendation regarding the above complaint. While Bell accepted it, [REDACTED] rejected it. Consequently, I am required to issue a Decision under Section 11 of our Procedural Code ("the Code").

Our Recommendation

After investigating [REDACTED] complaint, we determined that:

- Bell's suspension of [REDACTED] services between June 27 and July 27, 2011, was improper.
- As the suspension was improper, the charges applied during the suspension were also improper.

In light of the above, we recommended that Bell:

- credit all monthly service fees for the period of the suspension; and
- compensate [REDACTED] for the inconvenience by providing two free months of her home phone service (if she was still a Bell customer), or alternatively, make a payment to her in the amount of the value of two months of her regular monthly phone service.

Bell accepted the Recommendation. It informed us that it had placed the value of two months' free service (\$67.60) on her account, and that it had applied \$44.68 of this sum towards payment of past due amounts which it claims are owed by [REDACTED] – the same amounts which precipitated the improper suspension of her service. This left \$22.92 on the account.

[REDACTED] rejected the Recommendation.

[REDACTED] Objections

Under Section 11 of the Code, the party objecting to the Recommendation is required to explain why he or she considers it to be unacceptable or inappropriate.

██████████ provided her objections in an email to CCTS dated August 7, 2012. In it, she reiterated that we should re-consider the amount of compensation that we awarded as:

- The situation has impacted her health; and
- She had to borrow money from the bank to pay her bills.

We note however, that we have already addressed these issues in our Recommendation and ██████████ has not provided any new information regarding these issues, nor has she provided any documentation to demonstrate that these issues were a direct result of Bell's failure to meet its obligations.

Other than the issues already considered in our Recommendation, ██████████ also raised the following points:

- 1) Her phone number was suspended without any notice, since the advisory letter that was mailed to her was sent during the postal strike, and after the service had already been suspended;
- 2) Bell should have checked its records before persuading her to give it her business, especially since all her information was exactly the same as when she first took Bell's service in 2004 at her present address; and
- 3) Bell mentioned, in its position that it feels that it is not appropriate to consider compensation for business losses when Bell is providing residential service. ██████████ responds that she does not own a business and that she is a supply teacher who relies on the functionality of her phone to receive calls alerting her to work availability. For these reasons, she feels that the amount of compensation should be reconsidered.

Our analysis of these objections is as follows.

Analysis

Objection #1

On Tuesday, June 14, 2011 at 11:59pm EST, Canada Post announced a lockout of CUPW members¹. The lockout had been preceded by some rotating strikes by postal workers. On June 26, it was announced that operations would resume as of June 27, 2011².

We have reviewed the account notes and confirm that Bell Canada sent a copy of the suspension notice to ██████████ by regular mail on June 9, 2012. Thus the suspension notice was sent prior to the suspension of the service, as well as prior to the lockout of postal workers by Canada Post. In our view, the uncertainty of the postal situation at the date it was mailed was not such that Bell could have predicted that the notice would get caught in a subsequent lockout.

Objection #2

Our standard of review requires us to determine whether the service provider reasonably performed its obligations towards its customer³. Our authority does not extend to directing or requiring that a service provider change its business practices⁴.

¹ http://www.canadapost.ca/cpo/mc/aboutus/news/pr/2011/2011_june_shutdown.jsf

² http://www.canadapost.ca/cpo/mc/aboutus/news/pr/2011/2011_june_return_to_service.jsf

Allowing a customer to open an account before completing a check as to whether the customer owed Bell money for past unpaid services, is a business decision which Bell is entitled to make, and it does so at its own risk. Bell had no legal or other obligation to deny her access to its services because of past unpaid accounts.

Objection #3

After the Recommendation was issued, ██████ advised CCTS that she is a supply teacher and depends on her home phone to obtain income. Although this may be the case, ██████ has failed to provide any evidence that she lost work opportunities or income as a result of the suspension of her service.

Decision

Section 11.5 of our Procedural Code provides that in formulating a Decision, the Commissioner shall consider whether there is substantial doubt as to the correctness of the original Recommendation.

As ██████ did not provide new information or raise any doubt as to the correctness of the original Recommendation, we are of the view that there is no basis upon which to modify it.

We note however, that in Bell's response to the Recommendation, it advised us that it provided ██████ the value of two months of service (\$67.60) by crediting the amount to the remaining balance of \$44.68 on ██████ closed account from 2008, leaving a remainder of \$22.92 on the account.

We have concluded that in doing so, Bell did not honour either the letter or the spirit of the Recommendation. We recommended:

"In light of the above, we recommend that Bell:

- o credit all monthly service fees for the period of the suspension (if it has not already done so); and*
- o by way of compensation for inconvenience, credit ██████ with two free months of her regular home phone service (if she is still a Bell customer), or alternatively make a payment to her in the amount of the value of two months of her regular monthly phone service."*

The Recommendation stated clearly that if ██████ was still a Bell customer, Bell was to credit her with two free months of service. It did not say that Bell should deposit the monetary value of two months' service on her account. By choosing to do so, Bell has attempted to use its improper suspension of her account and our Recommendation as tools to obtain payment of the allegedly overdue accounts.

In addition, Bell has yet to demonstrate that it credited the monthly service fees that were applied during the period of the improper suspension.

For clarity, our final Decision is:

³ Section 4.1 of our Procedural Code

⁴ Section 4.3 of our Procedural Code

- Bell shall credit [REDACTED] monthly service fees for the period of the suspension; and
- Bell shall provide [REDACTED] with two free months of service.

Further to Section 11.7 and 11.8 of our Procedural Code, [REDACTED] may accept or reject this Decision within 20 days of receipt. Should she decide to reject this Decision, [REDACTED] may pursue this complaint through any other forum and Bell shall be fully released from the Decision.

A copy of our Procedural Code is attached for reference.

Sincerely,

Howard Maker
Commissioner

Attachments:

1. Recommendation
2. Procedural Code