

The complaint

Mr H complains that Lloyds Bank PLC (“Lloyds”) debited his account with a number of card transactions which he says he neither made nor authorised and are unwillingly to refund him.

What happened

Between 18 March 2019 and 4 May 2019, eight disputed transactions totalling £6,803, were made using Mr H’s debit card details. They were all to a business providing cleaning services, who I’ll refer to as “T”. All of the transactions were made without the presence of a physical card; they were manually keyed payments.

Around this period, there were also several cash deposits and bank transfers made by both third-parties and Mr H himself; into his account, totalling £6,970.

Mr H contacted Lloyds on 29 May 2019 disputing all the payments made to T, asking it for a refund. He said he didn’t make these payments or recognise the business. The card was still in Mr H’s possession.

Mr H lives with his wife and young child. He confirmed to both Lloyds and this service that he has not shared his card details; his card is kept with him - in his wallet and no-one else had access to it. He also said he doesn’t use the debit card often as his main account is held with another bank and the purpose of this account was just to hold savings for his child’s impending birthday.

He couldn’t explain how anyone else could know the details for his card.

When asked about the cash deposits and third-party bank transfers into his account, Mr H said, these were from individuals he knew, that owed him money. Mr H doesn’t dispute any of these credits.

After questioning Mr H, Lloyds Fraud Team declined his claim - concluding Mr H had authorised the disputed transactions. It delivered the outcome to Mr H over the phone.

Unhappy with the outcome of his fraud claim, Mr H complained to Lloyds disagreeing with its decision to not refund him the disputed transaction amounts. He also complained about the service provided by Lloyds; specifically, that, when he called or visited a branch, they were unable to provide him with any information about his fraud claim. He was also unhappy that he wasn’t provided with a written letter detailing everything Lloyds had considered and its reasoning for declining his claim.

Lloyds investigated Mr H’s complaint and wrote to him with its final response on 19 June 2019. It maintained its Fraud Teams decision not to refund Mr H was correct for the following reasons;

- The activity and technical evidence didn’t match Mr H’s version of events, casting doubt over the credibility of his testimony.

- It didn't agree that it was possible for Mr H to only check the credits received into his account when he logged onto his online banking without noticing the balance on his account was much lower than it ought to have been.
- The information provided to authenticate the payments and held by T matched the information held by the bank.
- It cannot identify a point of compromise for Mr H's debit card and personal details, nor has Mr H been able to say how these payments could've happened if they weren't made by him.
- It concluded that it didn't believe there was any benefit in a fraudster transacting in this way.

Lloyds also addressed Mr H's concerns about the service he'd received. It clarified the reason the Fraud Team didn't write to him was because it shared the outcome with him over the phone. It also explained the reason staff members in branch and its telephony teams were unable to give Mr H further information relating to his fraud claim is because they do not have access to the Fraud Team's systems – only certain staff can access this information.

Mr H, unhappy with the response from Lloyds, referred the complaint to our service. One of our investigators looked into his complaint. He didn't think Mr H's complaint should be upheld. He thought on balance, it was more likely than not that Mr H had authorised the transactions in question.

Mr H doesn't accept this and maintains he didn't make or authorise the disputed transactions. He asked for an ombudsman to review his complaint.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I'm not upholding it for largely the same reasons as the investigator.

I know this will be very disappointing for Mr H. But I'd like to take some time to explain how I've reached my decision. The investigator wrote detailed views that set out in full the facts, the transactions, the relevant regulations and the evidence. Both Mr H and Lloyds have read the investigator's views, so I won't repeat every detail here, only those which form the basis of my decision. I'd like to assure Mr H I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't mention any specific point, it's not because I've failed to take it on board and think about it, but because I don't think I need to comment on it to reach what I think is the right outcome.

The regulation that is relevant when considering Mr H's complaint is the Payment Services Regulations 2017 ("PSRs 2017"). Under the PSRs 2017 banks are required to refund the amount of an unauthorised transaction - where its customer didn't make or authorise payment(s) themselves. There are some exceptions in the regulations, but these don't apply in Mr H's circumstances. So, when we look at whether a bank has acted fairly in rejecting someone's fraud complaint, one of the things we consider is whether the customer made the payment(s) themselves or allowed them to be made. If we're satisfied that they did, then we generally wouldn't ask the bank to refund them.

So, I need to come to a view about whether or not I think Mr H authorised the payment. To help me decide what has happened I've looked at the evidence of the payments, as well as what both Mr H and Lloyds have told us.

Having done so, I think the following matters are relevant to how I've considered this complaint:

- Firstly, having reviewed Lloyds' technical evidence I'm satisfied, that Mr H's card details, including the security code from the reverse of the card ("CVV") and billing address were used to make and authenticate the disputed transactions.
- It's possible that whoever made the payments to T could've done so, without the physical card and I accept it's generally easier to obtain card details than to physically obtain an actual card. But with that being said, in Mr H's particular circumstances the opportunities were limited for someone to obtain these details as Mr H has said the card was always in his possession, no-one had access to it and he hardly used it to make purchases, as the account was used to hold savings.
- I've carefully looked at Mr H's statements and the pattern of activity on his account. I've also considered what Mr H has said and even the possibility his card details could've been compromised. However, on balance, I'm still not persuaded it would've been possible for someone other than Mr H to have authorised the payments as;
- The credits into Mr H's account have been paid in by different sources and are broadly in line with the disputed transactions.
- No balance enquires were carried out before a payment was made to T.
- There were no declined payments to T due to insufficient funds.

So, it raises the question of how some unknown third-party would've known not only Mr H's card details and billing address, but also this level of detail about the incoming payments and balance of the account before making each payment over a period of roughly two months.

- Mr H has told Lloyds and, in his submissions to this service, confirmed he'd only logged on to check if a payment he was expecting had been received. Lloyds online audit report shows that Mr H logged on to his online banking on 3 May 2019. By this point Mr H had received credits into the account over the last two months totalling £6,970 yet the available account balance on 3 May 2019 was showing as £1,043, of which £1,000 was the payment he was expecting. I can't see how it would've been possible for Mr H to have not noticed his account balance was over £4,000 less than expected – especially as he was saving for a specific purpose. Mr H has given a number of reasons; such as he only checked his credits, his phone screen was damaged, credit and debits don't always update and that he was only logged in for a brief time to explain why he didn't notice the disputed payments. Lloyds have explained it wouldn't have been possible to check the credits without first seeing the account balance and when checking the credit payment on 3 May 2019, Mr H would've seen the previous entry – which was a payment to T for £1,125. So, I don't find Mr H's explanation plausible that he didn't notice the disputed transactions and I can only conclude that he knew payments had left his account. Yet, he didn't contact Lloyds until the 29 May 2019.
- The transactions took place over two months and do not match what I'd typically expect to see from fraudulent use. Usually you'd expect a fraudster to make the most of having access to the card details in the shortest amount of time to maximise their gain before the fraud is identified and the card blocked.

So, after careful consideration and looking at everything, overall, I'm not persuaded that the most likely explanation is that a third-party, with Mr H's card details carried out the transactions without his consent. I think on balance it more likely than not that Mr H made or otherwise authorised the payments he disputes. I realise that's a difficult message to give

and indeed receive. But I don't think Lloyds has acted unfairly in holding Mr H liable for these transactions.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 12 June 2020.

Sonal Matharu
Ombudsman