

The complaint

Mr L is unhappy Revolut Ltd won't refund him for a point of sale transaction that he says he didn't carry out.

What happened

Mr L is disputing a card payment for £161.55 made to a restaurant in Miami Florida on 11 August 2019.

Mr L has told us he was in America at the time visiting family, flying to Boston on 2 August 2019 where he stayed until he travelled onto Toronto Canada on 12 August 2019. He says he didn't travel to Miami at all. He's provided a booking confirmation in the name of a family member for a hotel stay in Boston from 6 to 12 August 2019 – he says he stayed with family up to this point. Mr L has also provided hotel booking confirmation for a hotel in Toronto from 12 to 16 August 2019.

Mr L topped up his Revolut card on 8 August 2019 as he said he intended to use it whilst he was abroad. He says he never gave it to anyone else to use. He explained that his PIN wasn't written down and he hadn't told it to anyone. However, he said it was his date of birth. Mr L told us he took a different credit card on the trip and this card had the same PIN as his Revolut one. He didn't end up using his Revolut card whilst abroad, instead he used his other credit card.

Mr L says he spotted the transaction when he checked his account and noticed his balance had decreased. He reported it to Revolut via its app service on 21 August 2019. He says he intended to use the card but didn't after noticing the disputed transactions. Mr L was still in possession of the card after the disputed transaction took place and when he got back to the UK.

Revolut didn't agree to refund Mr L. It explained that the transaction was carried out using chip and PIN and because of this, it was satisfied the genuine card was used. As this was still in Mr L's possession, it felt he must've carried out the transaction.

Mr L brought his complaint to this service. Our investigator didn't uphold the complaint. She wasn't satisfied that the evidence Mr L provided was enough to show he wasn't in Miami at the time of the transaction. She was satisfied the genuine card was used to carry out the transaction and because Mr L says he had it in his possession at all times, she concluded it was most likely he carried out the transaction.

Mr L disagreed with the investigator's findings. He explained that he had sent information that proved he wasn't in Miami at the time of the transaction and Revolut couldn't sufficiently show that the transaction was made using chip and PIN. He maintained he didn't consent to the payment and asked for his complaint to be referred to an ombudsman.

Following the investigator issuing her opinion, Mr L's other credit card provider sent us a copy of his statements. Our investigator let Mr L know that these statements showed numerous transactions taking place in Miami around the same time as the disputed transaction, therefore placing him in the vicinity of the transaction at the time. She asked Mr L for his comments on this, but he hasn't provided any.

Revolut also provided more clarification around how the transaction was authenticated. It originally said it was made using chip and PIN. However, it has now provided evidence to show the transaction was actually carried out by chip and signature. It pointed out this still means the genuine card was used, because the chip was read, but admitted the PIN wasn't entered. Our investigator let Mr L know that Revolut had provided evidence the transaction was carried out with a signature. Mr L said that unless Revolut could provide evidence that the signature matched his, then he maintained he didn't carry out the transaction.

The complaint has now been passed to me to decide.

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, my review of the evidence has led me to the same overall conclusions as the investigator previously set out and for much the same reasons.

In short, Revolut is required to refund the amount of an unauthorised transaction. The relevant regulations, to this effect, are the *Payment Services Regulations 2017 (PSRs)*. Mr L says he didn't carry out the transaction and is therefore seeking a refund. So, my primary concern is to come to a view about whether or not I think Mr L authorised the transaction.

Having reviewed the transaction history, I'm satisfied the transaction was carried out using the genuine card. The electronic records provided by Revolut confirm that the integrated circuit i.e. the chip, was read when the transaction took place. There is no consensus among banking experts, or scientists who have looked into this area, that cloning a chip on a card is possible. I also note that Mr L has said he hadn't used the card prior to the disputed transaction, so it seems there was no opportunity for cloning to take place anyway. Taking this into account, as well as the facts of the complaint itself, I'm of the opinion it was Mr L's genuine card used to carry out the transaction.

Revolut initially said the transaction was completed using a PIN. However, the evidence shows it was actually completed using a signature. Mr L says Revolut should be able to provide evidence that it was his signature used for the transaction and if it can't, then he maintains he didn't carry out the transaction. But despite what Mr L has said, I'm persuaded by the evidence that on balance, he authorised the transaction. I will now explain why.

Mr L was still in possession of the card after the disputed transaction took place. Given I've already concluded it was this genuine card that was used to carry out the transaction, I've ruled out an unknown third party being responsible. I say this because it would mean they would've had to take and replace Mr L's card without his knowledge. This doesn't seem likely at all. It would be extremely unusual for someone to steal a card and then go to the trouble of giving it back to its owner. As well as only carrying out one relatively low value transaction.

Having ruled out an unknown third party, I've also considered whether it could've been someone close to Mr L that carried out the transaction without his permission. Mr L was

travelling with family and it's possible they would've had easier access to his card and been able to take and replace it. And they wouldn't have needed to know the PIN, as only a signature was required for the transaction – something that is easier to copy. However, I don't believe this is the most likely explanation.

Mr L has maintained adamantly throughout his complaint that he didn't visit Miami on his trip to America. He provided evidence of a hotel booking made by a member of his family to show he was in Boston on the date of the disputed transaction and then went to Canada after this. However, our investigator obtained Mr L's credit card statements, and these show numerous transactions in Miami between 7 and 12 August 2019, to restaurants and shops. These statements also show Mr L was in Boston prior to this and Canada after. Despite us asking, Mr L hasn't provided any explanation for the discrepancy between what he told us, and the evidence on his credit card statements.

Because of this, I'm afraid it makes me doubt Mr L's version of events and his statement that he didn't carry out the transaction. From the evidence I'm satisfied Mr L and his card were both in Miami at the time of transaction, and his inconsistency and lack of explanation around this, suggests that on balance, he likely carried out the transaction. It therefore doesn't feel fair to ask Revolut to refund Mr L.

My final decision

My final decision is that I don't uphold Mr L's complaint against Revolut Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 5 August 2020.

Sarah Brimacombe
Ombudsman