

The complaint

Mr K has complained that Lloyds Bank PLC won't refund two payments, which he said he didn't authorise.

What happened

Mr K is disputing two online transfers for £1,350 and £1,650, which were made to an account with another bank. He said he'd made a cash deposit into his account on 21 October 2019. At around 5pm, he logged on to his online banking to check that the cash had credited his account. He said that was when he noticed the two transfers. He said he called Lloyds immediately and asked it to reverse the disputed transactions, but it didn't.

Mr K raised a fraud complaint with Lloyds. He said his name appears as the payee, but this wasn't his account, although he did have an account with the receiving bank. He thought this was suspicious. He also complained that Lloyds didn't try to stop the disputed transactions or recover his money. He asked for a refund.

Lloyds investigated his complaint and decided not to refund him. It said the disputed transactions were made via his online banking app on 21 October 2019. Its records showed that Mr K had logged on to his mobile banking app with fingerprint or facial ID. It said he'd told the bank that his phone was always with him, no-one had access to it, and he hadn't shared his login details with anyone else. He'd also admitted that he'd logged on to his mobile banking and had clicked a button by mistake, not realising it was an instruction to transfer money. Therefore, Lloyds concluded that he'd authorised the two disputed transactions and it didn't contact the receiving bank.

Mr K didn't think this was fair, so he brought his complaint to this service. He told this service that he believed the disputed transactions were connected to another incident when someone had used his banking details fraudulently for shopping. He also confirmed that he hadn't received any phishing emails or unsolicited calls.

An investigator looked into his complaint, but she didn't uphold it. She concluded that Mr K had authorised the two transfers and that Lloyds was entitled to refuse a refund. She explained that Lloyds had two days in which to try to recover the money, if it had been sent in error. She said there was no evidence that it had made any attempt to contact the receiving bank. However, as the third party had withdrawn the money within a few hours, it was highly unlikely that Lloyds would've recovered the money anyway.

Mr K didn't accept the investigator's view. He's asked for an ombudsman's final decision.

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.

When considering what is fair and reasonable, I'm required to take into account: relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time.

Having done so, I'm afraid my review of the evidence has led me to the same overall conclusions as those reached by the investigator and for broadly the same reasons.

In short, Lloyds is required to refund the amount of an unauthorised transaction. The relevant regulations, to this effect, are the Payment Services Regulations 2017 (the PSRs 2017). But the bank can hold Mr K liable for any disputed transactions if the evidence suggests that it's more likely than not that he made or authorised them himself.

I've seen the bank's online banking report for Mr K's account. The report shows that Mr K logged on to his mobile banking app at 5.40pm on 21 October 2019 using fingerprint or facial recognition ID. The transfers were made at 7.58pm and 7.59 pm via his mobile banking app. I'm satisfied the transfers were authenticated by the app. But the regulations relevant to this case say that is not, on its own, enough to enable Lloyds to hold him liable. So, I also need to think about whether the evidence suggests that it's more likely than not that Mr K consented to the transfers being made.

From what I've seen, I don't think it's unreasonable for Lloyds to conclude that Mr K consented to the transfers and consequently that he authorised the disputed transactions.

- according to the online banking report, Mr K's fingerprint was used to log on to his mobile app at 5.40pm.
- Mr K admits he logged on at around 5pm
- his mobile app was used to set up the new payee details
- the report shows that the system sent a message via the app asking him to confirm that he'd set up the new payee
- the transfers were approved via the mobile banking app
- Mr K said no-one else had access to his phone or knew his mobile banking details
- Mr K admits he approved the transfers but said they were made in error.

Based on this evidence, I am satisfied that it was Mr K who made the transfers and not anyone else. Besides, he couldn't explain how anyone else could've set up the new payee details on his mobile banking app. Moreover, his evidence 'that he clicked a button by mistake' is inconsistent with the technical evidence which shows that several steps were needed before the transfers could be made.

I think what's happened here is that Mr K changed his mind at the last minute and tried to recall or stop the transfers. And he might think that, by changing his mind, he didn't consent to the transfers. However, under the relevant regulations, a payment instruction is regarded as having been authorised by the payer if the payer has given his consent to the execution of the payment transaction, in accordance with the procedure set out in the terms and conditions for the account. Typically, this means that the payer has used an approved payment method such as a debit card or in this case the mobile banking app.

A payer is still treated as having consented to a payment even where he has changed his mind after the payment has been made.

Where there's clear evidence of a genuine mistake, then according to the industry guidance, Lloyds had two working days to contact the receiving bank. The receiving bank told this service that Lloyds didn't contact it within that timescale. I assume that's because it didn't think there was clear evidence of a genuine mistake. However, I don't believe it would have made a difference to the outcome if Lloyds had contacted the receiving bank within the

timescale because the third party had withdrawn most of the money within two hours and all of it had gone within six hours.

I understand Mr K is also unhappy that Lloyds didn't check that the payee's name (which was his name) matched the accountholder's details. However, until this year, banks only checked the account number and sort code on faster payments. There was no obligation to check the accountholder's name. Since Spring 2020, banks have been checking that the name entered on a payment instruction matched the the actual name on the account where the money is being sent. Unfortunately, this service wasn't available when the disputed transfers were made.

In summary, taking everything into account, I find, on balance, that Mr K authorised the disputed transfers. It follows that Lloyds is entitled to hold him liable for them. Also, I don't think Lloyds would've recovered his money if it had contacted him within two day because the money was withdrawn within hours. In any event, I don't think there was clear evidence that the transfers were a genuine mistake.

I'm very sorry this will be disappointing news for Mr K. This looks like he's been duped into making a payment but that isn't Mr K's evidence. However, if he's authorised the payment then I'm afraid Lloyds doesn't have to refund him. I hope I've made this clear in the reasons for my decision.

My final decision

My final decision is that I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 10 January 2021.

Razia Karim
Ombudsman