

Complaint

Mr V complains that Hitachi Capital (UK) Plc is holding him liable for a loan that he says he didn't take out.

Background

In April 2019, a loan of approximately £9,000 was taken out in Mr V's name. The loan was arranged via an intermediary and was used to finance the purchase of a luxury watch. A direct debit was put in place to collect monthly repayments from Mr V's current account. The watch was only partially paid for using the loan – a deposit also had to be paid up front. This was paid using Mr V's debit card.

Mr V contacted Hitachi in May 2019 to tell it that he wasn't responsible for the application. He said that some of the details on the loan application (his email address, phone number and occupation) were wrong.

Hitachi said it wouldn't treat the application as fraudulent. It said it had evidence to show that the transaction was completed using his card details, the goods were delivered to his home address and signed for and that a copy of Mr V's driving licence was provided to the retailer as proof of identification.

Mr V was unhappy that Hitachi was still holding him liable for the repayments and so he referred a complaint to this service. It was looked at by an investigator who didn't uphold it. He was persuaded by the evidence submitted by Hitachi that it was unlikely the loan was taken out by an unauthorised third party.

Mr V disagreed with the investigator's view. He said that another loan had been taken out with a different business which had agreed that he was the victim of identity theft. He also said that there were fraudulent transactions on two debit cards he held with other businesses which were refunded. Finally, he said that a member of his family was also a victim of fraud around the same time and he thinks there might have been a connection.

Because Mr V disagreed with the investigator's opinion, the complaint has been passed to me consider and issue a final decision.

Findings

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've come to the same overall conclusion as the investigator and for broadly the same reasons. It's impossible for me to know with complete certainty what happened here. And in cases where the evidence is unclear or contradictory, I must reach a decision on the balance of probabilities. In other words, I need to consider whether it's more likely than not that Mr V agreed to take out this loan or authorised another person to do so in his name.

From the evidence I've seen, I think it's unlikely that this loan application was made without Mr V's involvement, at least to some degree. I say that because:

- The person who made the application must have known the details of Mr V's current account and his debit card in order to submit them as part of the application. Mr V told the investigator that his debit card is kept in his wallet and it hadn't been out of his possession throughout this period. I can't find any plausible explanation as to how an opportunistic fraudster could've obtained Mr V's details without his knowledge.
- The person who made the application was able to submit a photograph of Mr V's driving licence as part of the application process. Mr V told the investigator that his driving licence wasn't lost or misplaced during this time. For the same reasons as I've outlined above, there doesn't appear to be any way that a fraudster could've obtained a copy of his driving licence without Mr V's knowledge.
- At the time of the application, Mr V was living with several members of his family. His wallet would've been left unattended from time to time in his home, but it was only those other family members that would've had access to it. He told the investigator that he's sure that no member of his family was responsible for the application.
- The retailer has submitted evidence from the courier to show that the watch was delivered to Mr V's home address and signed for. I can't say for sure that the signature taken at the time of delivery is Mr V's – but I find it unlikely that a fraudster would've been able to intercept a delivery of the goods.

I understand Mr V's current account provider agreed to refund the deposit he paid using his debit card. Mr V has argued that, if that business was willing to treat the payment as fraudulent, Hitachi should do likewise. I can't comment on what motivated Mr V's bank to refund the payment.

However, the weight of the evidence here does strongly suggest that either Mr V took out this loan himself or that he was involved in authorising another person to do so. I'm sorry to have to disappoint Mr V, but I think it's reasonable for Hitachi to hold him liable for the loan.

Final decision

For the reasons I've set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr V to accept or reject my decision before 16 April 2021.

James Kimmitt
Ombudsman