DRN-2792073

The complaint

Mr J complains that Monzo Bank Ltd won't refund him transactions he says he didn't make or authorise. And that the bank didn't do enough when reported that his account had been used for fraudulent purposes. He's also unhappy that Monzo closed his account.

What happened

Mr J had an account with Monzo. Between 24 and 28 December 2019, Mr J says that multiple fraudulent transactions were carried out on his account after someone took over his account.

I won't be listing all the disputed transactions as both parties are aware of which transactions are in dispute. However, in summary the transactions consisted of online payments in and out of Mr J's account using Mr J's banking app, ATM withdrawals and card payments. Mr J says he has no idea who was responsible for the transactions and has lost money belonging to him.

Monzo reviewed the activity on Mr J's account. Following its review, it decided to close Mr J's account without notice on 30 December 2019. The bank wrote to Mr J to let him know he'd need to make alternative banking arrangements.

In response, Mr J contacted Monzo on 31 December 2019. Mr J told the bank that he'd lost his bank card and mobile phone around 15 December 2019. And that someone else was using his account for fraud. He said he'd been a victim and the fraudster spent £80 of his own money that was paid into his account on 24 December 2019. So, he wanted the bank to refund him this money.

He explained that his mobile phone didn't have a passcode and his PIN was stored in the notes section of his phone, which is how the fraudster was able to obtain his PIN and use his mobile banking app to make the disputed transactions – in effect he said someone had taken over his account. Mr J also told the bank that a friend had ordered a new card for his bank account using his lost phone on 24 December 2019.

Monzo said it hadn't done anything wrong when it closed Mr J's account. And had done so in line with the terms and conditions. However, it accepted that it hadn't looked into Mr J's fraud claim at the time. And had only done so after Mr J had brought his complaint to our service. It apologised and offered Mr J £50 compensation for any trouble and upset its delays had caused.

Monzo investigated Mr J's fraud claim and decided not to refund the disputed transactions to him. It said Mr J had failed to keep his banking credentials safe. In summary it said:

- Mr J's genuine card, PIN and online banking were used to make each transaction
- The mobile phone and IP address which had been used to make the online transactions were the same ones used by Mr J when he opened his account with the bank in August 2019

- A new bank card was ordered using Mr J's mobile phone and sent to his home address. The card had to be activated via Mr J's mobile banking app using the 16 -digit number on the card and there's no explanation for how an unknown third party could intercept the card when it was delivered to Mr J's home address
- Transactions were made over a number of days which was unusual for a fraudster and biometric evidence showed Mr J was still in possession of his mobile phone and accessed his mobile banking using his fingerprint on 26 December 2019
- Several transactions were made to existing payees/contacts including members of Mr J's family after he says his account was taken over by a fraudster
- Mr J hadn't offered a plausible explanation for how an unknown third party was able to intercept both his bank card, PIN, take his phone and obtain his banking information
- Mr J told the bank that a friend ordered his new bank card using his lost phone which suggested Mr J was aware *who* was carrying out the disputed activity on his account, yet he didn't alert the bank or report the matter to the police
- The balance of Mr J's account was spent by 25 December 2019, (including the £80) so he wasn't out of pocket
- Mr J had failed to comply with the term and conditions of his account to keep his security details and payment instruments safe

Unhappy with this response Mr J brought his complaint to our service. He wants the bank to refund him the money he says he lost - £80.

One of our investigators looked into his complaint. She looked at the banks technical evidence, and what Mr J had said about events. Having done so she concluded it was most likely Mr J had breached the terms and conditions of his account by sharing his bank card and account information with another person. So, Monzo wasn't liable to refund Mr J. She pointed out that Mr J hadn't lost out financially and had spent the balance before someone else began using his account. She also said the bank hadn't done anything wrong when it closed Mr J's account. And its offer of £50 for the trouble caused by its delays was fair.

Mr J disagreed and asked for an ombudsman to review his complaint, so the complaint has come 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.

When considering what's fair and reasonable, I'm required to take into account relevant law and regulations, the regulator's rules, guidance and standards, the codes of practice and, where relevant, what I consider to have been good industry practice at the relevant times. The investigator wrote a detailed view that sets out the full facts, the transactions, and the evidence. Both Mr J and Monzo have read the investigator's view. So, I won't repeat every detail here, only those which form the basis of my decision. However, I can assure Mr J that I've read the file, including his comments and evidence.
Generally speaking, if the evidence suggests its more likely than not that Mr J authorised the payments, Monzo is entitled to hold him liable. The relevant regulations, to this effect, are the Payment Services Regulations 2017 (the PSRs 2017). Mr J says he didn't make the disputed transactions and doesn't know anything about them, so my primary concern is to come to a view about whether or not I think Mr J authorised the transactions by making them himself or he allowed them to be made. If he did permit the transactions, then we generally wouldn't ask the bank to refund them.

Mr J can also be held liable for the payments, even if unauthorised, if Mr J failed with intent or gross negligence to take reasonable steps to keep his personalised security details safe, failed to use his payment instrument in accordance with the terms and conditions, or failed to notify the loss, theft misappropriation or unauthorised use of the instrument without undue delay. These regulatory requirements are also reflected in the terms and conditions of Mr J's account. So, for example, if Mr J deliberately shared his details with someone else, and they used those to make the payment – even without his permission - he'd be held liable.

Firstly. I'm satisfied that the payments were authenticated using Mr J's personalised security credentials, his genuine bank card and PIN. What seems to be in dispute here is whether Mr J consented to the disputed transactions – he's said he knows nothing about the transactions and someone else took over his account. Having looked at all the evidence, I think it's unlikely that an unknown person made these transactions without Mr J's knowledge or permission. I say this because:

- Monzo's technical records show the transactions were made using Mr J's genuine card, mobile phone, online banking credentials and PIN. So, I'm satisfied that whoever made the transactions was able to do so because they had Mr J's bank card, knew his PIN, was in possession of his mobile phone and knew his security banking credentials
- Mr J says he lost his Monzo bank card and mobile phone around 15 December 2019. And that his PIN and email address were recorded on the notes section in his phone which didn't require any password to access. However, this contradicts the bank's evidence. According to Monzo's records Mr J had installed biometric security on his phone to protect access to his online banking which was his fingerprint. The banks' technical evidence shows Mr J accessed the app using his fingerprint on 26 December 2019 which is *after* Mr J says he lost his phone
- Mr J didn't report the loss of his card or compromise of his security credentials around 15 December 2019. And he only notified the bank when Monzo closed his account on 31 December 2019. Mr J hasn't given a plausible explanation why he didn't notify the bank sooner about the loss of his card
- I think it's unusual that Mr J would arrange a direct credit into his account on 24 December 2019, if as he's suggested he hadn't had access to his account for two weeks, but hadn't made any attempts to regain access to his account or get a new card
- From looking at the account activity money was regularly sent and received from and to usual payees (including members of Mr J's family) both before and *after* Mr J says he lost control of his account, his bank card and mobile phone. It's not clear to me why an unknown third party would send money to known contacts of Mr J as they'd be no benefit in them doing so.
- Mr J says he ordered a new bank card which was sent to his home address. I can see from the evidence, that the new bank card was requested on 24 December 2019, using Mr J's mobile phone. And that this new bank card was subsequently used to make a disputed transaction. Mr J hasn't provided a plausible explanation for how an unknown third party would be aware he'd ordered a new bank card and was able to intercept the card at his home address in order to use it fraudulently
- Mr J says he'd lost his mobile phone sometime around 15 December 2019 – yet he's confirmed his phone was used to order a new card on 24 December 2019. Initially he said he did this himself. However, Mr J also told Monzo that his *friend* had been the one to order the replacement card on *his* lost phone, which suggests to me that if it wasn't Mr J, he was aware of *who* was using his account
- the new bank card was activated via the banks automated security system, on 28 December 2019. The card could only be activated by confirming the full 16-digit card

number in-app, so either Mr J activated the card himself (and his phone wasn't lost) or he knew the person who had access to his account at that time and gave them the card to activate it using his phone

- some of the disputed transactions were made using the mobile phone Mr J had set up when opening his account with Monzo. And from the *same IP* address he'd used since opening his account. So not only would the person have needed Mr J's security details, they would have also needed access to Mr J's mobile phone and access to his IP address

So, when I weigh everything up, I'm not satisfied there's evidence of fraud here. In my view the most likely explanation is that Mr J either made the disputed transactions himself or he let someone else use his bank card and account credentials to make the transactions. So, in the circumstances it wouldn't be fair for me to ask Monzo to refund Mr J.

Mr J says the bank didn't look into things for him when he told the bank he'd been a victim of fraud. Monzo accepted it hadn't looked into Mr J's fraud claim at the time. And had only done so once Mr J had brought his complaint to us. Monzo apologised and offered Mr J £50 for the delay. I think that's fair and it's a reasonable reflection of what went wrong, and the impact Monzo's mistake and delays had on Mr J. So, I won't be asking the bank to do anything more to resolve this aspect of Mr J's complaint.

Finally, Mr J says Monzo treated him unfairly when it closed his account. I accept having his account closed caused Mr J some inconvenience, but Monzo was entitled to close Mr J's account at any time on giving two months' notice; in some circumstances it could do so without notice. In this case, Monzo closed Mr J's immediately. In my view that was reasonable given the concerns it had about how Mr J was operating his account. So, whilst I appreciate this caused Mr J inconvenience, I can't say the bank has done anything wrong or treated him unfairly when it closed his account without notice.

My final decision

For the reasons I've explained Monzo Bank Ltd should pay Mr J £50 to resolve his complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 29 June 2021.

Sharon Kerrison
Ombudsman