

## **The complaint**

Mr L complains that Starling Bank Limited failed to refund a transaction he didn't recognise that was made from his account.

## **What happened**

Mr L noticed an overdraft was outstanding on his Starling account after checking his credit report. He approached Starling about it, telling them that he didn't recognise the overdraft. Starling looked into the payment, which was made after an overdraft was approved on his account a few years earlier.

Starling believed that Mr L had made the payment and declined to refund him. Mr L then made a complaint about it to Starling, arguing that he wasn't responsible for the debt. Starling explained to Mr L that the audit data showed Mr L applied for an overdraft on his original phone and then changed his password. Starling believed Mr L then registered a new phone for his account. A new payee was then set up on the account and after the overdraft was approved, the full amount of the overdraft was sent to this new payee. Mr L told Starling that he didn't have this type of phone at the time, but Starling still thought the data showed it was Mr L who was responsible and refused to refund Mr L. Starling also said that because of the security on the account, Mr L would have been aware of any other devices registered.

Mr L brought his complaint to our service for an independent review and it was looked into by one of our investigators, who thought it was reasonable for Starling to hold Mr L responsible for the transaction. The investigator explained that it was unlikely that someone else was responsible due to the security required to register a new device. He pointed out that the second device had been deregistered from the Starling app within a few seconds of the device Mr L said he only used. Both of these deregistrations took place a couple of years after the disputed transaction, which was around the time the loss was reported to Starling. The investigator thought it was unlikely that someone else had the device and deregistered it after such a long time, but within a few seconds of Mr L's other phone. Mr L disagreed and asked for a further review of his complaint, which has now been passed to me for a 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.

The relevant law surrounding authorisations are the Payment Service Regulations 2017 and the Consumer Credit Act 1974. The basic position is that Starling can hold Mr L liable for the disputed payment if the evidence suggests that it's more likely than not that he made it or authorised it.

Authorisation is made up of two parts. Authentication and consent. Authentication is usually referred to as the technical evidence and in this case, Starling have supplied evidence that shows the new payee was set up and the payment authorised using the password for Mr L's account. I'm satisfied the evidence shows the disputed transaction was authenticated.

Consent refers to the way in which Starling and Mr L agreed to operate the account to allow Starling to make payments on Mr L 's behalf. Starling agree to act on the instructions of their account holder, Mr L in this case. The use of the app to set up a faster payment is one way in which instructions can be given to Starling. Because the app was used to make the faster payment, I'm satisfied that consent was given and the disputed transaction was authorised. But, there are exceptions where it wouldn't be appropriate for Starling to hold Mr L responsible, for example if the mobile app was used without his permission.

Mr L has explained that he didn't apply for an overdraft or set up a new payee on his Starling app. He's also said he didn't send any money to this new payee. Mr L has also denied using a second device on his account. Starling's audit data shows when each step is carried out including the registration and deregistration of any devices. In this case, Mr L opened his new account with Starling, and a few weeks later, just before the disputed transaction happened, he changed the password on his account.

Shortly after changing the password, a new device was registered on the account and Starling have explained that this new password was needed to register the new device. Mr L said that he hadn't given his password to anyone, so I think it unlikely that a new device could have been registered without this password and as Mr L was the only one who had it from the recent password change, it seems unlikely that anyone else could have obtained it.

All the activity then took place on this new device, including the final stage of obtaining the overdraft, setting up the new payee and sending the faster payment. Mr L has denied it was him who was responsible, but I think this device was in the control of Mr L as he'd used the newly changed password to access the app and confirm the faster payment. Mr L said he'd noticed the overdraft on his credit report for some time before he approached Starling, nearly two years later. I'm not sure why Mr L didn't notify Starling about this earlier, as it was a debt recorded on his credit score which I'm sure would have had a negative effect on his credit profile. He also believed he hadn't made the transaction, so I would have thought contacting Starling about a debt that Mr L didn't recognise would have been done much sooner.

Starling's records show that the device Mr L first used to access the app and the second device were both deregistered within a few seconds of each other shortly before Mr L notified Starling about the disputed transaction. I think this further shows that the second device was more than likely under the control of Mr L. For it to be controlled by an unknown third party, it would be a significant coincidence that both phones linked to the same Starling account were deregistered within a few seconds of each other so long after the account was last used.

I asked for further enquiries to be made about the receiving account and the information that was provided indicates the account is held in the name of Mr L. So, I think overall that Mr L was more than likely responsible for the transaction and I won't be upholding this complaint.

### **My final decision**

I don't uphold this complaint against Starling Bank Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 22 December 2021.

David Perry  
**Ombudsman**