

## **The complaint**

Mr A complains that Bank of Scotland plc (trading as Halifax) won't refund him for transactions to gambling companies he says he didn't make or agree to.

## **What happened**

Mr A holds a current account with Halifax. In July 2020 he paid a large sum in to this account from his business account.

Over the next day his card details were used to make a number of deposits to several gambling firms. The majority of the available money in the account was spent in just over an hour, leaving the account overdrawn.

Mr A says he logged on to his online banking and contacted Halifax as he didn't recognise the transactions. He said he'd never gambled and had not made these transactions. He asked Halifax to refund the transactions in dispute, but after review Halifax declined to refund them.

Mr A was unhappy with this and complained, saying he didn't make the transactions. He also asked why Halifax allowed such a large sum of money out of his account to go towards gambling transactions.

Halifax looked at what happened, but declined to refund Mr A. They said there didn't seem to be a point of compromise for Mr A's card details for a fraudster to get hold of them, as Mr A kept the card with himself and hadn't entered the details on any new websites where they could have been stolen. They said it wasn't typical of a fraudster to make transactions to gambling firms, as it is of little financial benefit to them. They also felt the activity indicated someone who had knowledge of Mr A's account.

Unhappy with this answer Mr A referred the complaint to our service. One of our investigators considered the complaint, but ultimately didn't feel Halifax had done anything wrong. They couldn't see how a third party would have come to know Mr A's card details, as well as be aware of the large payment in to the account. Mr A had said he hadn't shared this information with anyone.

The investigator also couldn't see why a fraudster would use stolen funds to gamble – as typically winnings from gambling websites can only be paid out to the card they were paid in on. So, there didn't seem to be a reason for a fraudster to do this, if they could just use the card details to steal. The investigator also said the spending pattern wasn't unusual for the account, so didn't think it would have flagged on Halifax's system.

Overall, they felt the most likely explanation was that Mr A either made these transactions himself or allowed someone else to do so. They didn't feel Halifax should be responsible for refunding Mr A.

Mr A didn't agree with this, saying he had never gambled and had not made these transactions. Because no agreement could be reached the case has 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.

Generally, Halifax can hold Mr A liable for transactions if the evidence suggests that it's more likely than not he made or authorised the transactions himself.

I've reviewed the bank's technical evidence, and I'm satisfied that Mr A's genuine card details were used to make the payments. But this isn't enough in itself to say Mr A carried out the transactions.

But from the evidence I've seen, I think it's more likely than not the transactions were either carried out by Mr A, or with his knowledge. I say this because:

- Mr A says he didn't share his card details with anyone else, or allow anybody else to use his account. So, there doesn't seem to be a clear explanation of how someone could have got hold of the details to carry out these transactions.
- There have been other online transactions from Mr A's account, so it's possible that his details may have been compromised this way. But the previous online transaction was the day before. It seems unlikely that having come in to possession of Mr A's card details a fraudster would wait for at least another day before trying to carry out any transactions.
- The spending makes use of the majority of the balance. It then stops, at which point Mr A contacts Halifax to cancel his card. That the payments stop suggests to me that the person making the transactions was aware of the balance on the account. Mr A has said he didn't tell anyone about the payment in to the account. I've not seen anything to suggest someone was able to check the balance at an ATM. And from the technical evidence it seems the only person to access the online banking that day was Mr A – he made two undisputed faster payments in the morning. I can't see a way that someone other than Mr A would have known the balance on the account.
- Halifax haven't been able to confirm the details on the gambling accounts used. But I've reviewed the terms of the gambling companies involved. One company doesn't specify how withdrawals can be made. But the other states that in all instances they will process a withdrawal back to the debit card used to deposit on the gambling account. It would seem pointless for a fraudster to try to defraud Mr A in this way, as any money sent to the gambling account could only be withdrawn back to Mr A's account. This makes it seem unlikely these transactions were carried out by an unknown fraudster. It would seem more straightforward for a fraudster to simply steal the money, such as through a money transfer service, or electronic money account.
- There are a few attempts to pay a third gambling merchant after the card was cancelled. But these are over an hour after the original spending, and there are only a few attempts to make use of the card. This suggests to me that the person making these transactions was aware of when the card had been cancelled and was trying to make it look like a third party was still attempting to use the card.

Overall then, I'm not satisfied that these transactions took place without Mr A's involvement. I think it's more likely than not these transactions were made either by Mr A, or someone with his permission. This means the transactions can be considered authorised, and Halifax aren't liable for refunding them.

Mr A has also questioned why Halifax allowed these transactions to go through, considering they were out of character for the account. Having reviewed the file I can't see there were any gambling transactions prior to this, or these amounts spent.

But I also have to bear in mind that Mr A's complaint is based on that he didn't carry out these transactions, and I think it's more likely than not he did. It follows that an intervention by Halifax wouldn't have prevented any losses to unauthorised transactions, as I think the transactions were authorised.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 11 March 2022.

Thom Bennett  
**Ombudsman**