

The complaint

Miss B complains that PayPal (Europe) Sarl and Cie SCA, won't refund payments that she didn't make from her account.

What happened

Miss B disputes six payments made to a gambling website on 23 May 2020 using PayPal. These totalled £550. She says that her account was 'hacked', and she didn't make these payments.

PayPal said it wouldn't be refunding the money. It said that it hadn't found any evidence of unauthorised account access.

Our investigator didn't recommend that the complaint be upheld. He set out the details of the payments which started at 19:08 with the last one at 19:13. Miss B said that she was at home and received a text from PayPal about one of the payments for £100. She logged onto her account, changed the password, and reported the fraud. She said that the betting company involved had no record of an account in her name.

Our investigator said that PayPal had told this service that one of the main reasons it didn't make a refund was because these were gambling payments. And Miss B had made payments to different gambling companies before. He also looked at evidence about the IP addresses that Miss B had used for genuine log ins to her account. There was a similarity between the one used for these disputed payments and to ones used before. He also couldn't see how an unknown third party had been able to discover her log in details. And there was no evidence of any other details about her account being altered.

Miss B didn't agree. She said that she didn't authorise these payments. She said that she had disabled a one button authorisation on her account now. But that this had been done too late to stop these payments.

my provisional decision

I issued a provisional decision on 4 November 2021. I set out below what I said.

I said I needed to take into account the Payment Services Regulations 2017 in considering this complaint. These state that a payment can only be authorised if it was consented to. So, it's not enough for it to be authenticated, say with personal security information. And if they weren't authorised Miss B wouldn't generally be responsible for them.

So, I said I'd be thinking about the following areas in looking at this complaint:

- What is the most likely explanation of what happened to the security information necessary to make these payments?

- Did Miss B either authorise the payments on the account, or allow someone else to use her account to do so?

I asked our investigator to contact PayPal to request more information about the authorisation of these payments. I took into account what it has provided below and consider it has now had a reasonable opportunity to support its case.

The position remains that there is relatively limited information about these payments. PayPal hasn't provided more than the electronic record of the payments coming from the merchant. And although Miss B says she has contacted the merchant I don't have anything to support what she says it told her. Having said that it isn't in dispute that the payments came through Miss B's PayPal account and I worked on the basis that these were authenticated.

The issue is whether Miss B consented to them. I noted from the information available that the log in relating to these payments took place at 19:08 that day. And the payments followed very quickly. PayPal says that Miss B submitted a claim straight away after she had received a text. She logged into her account from a different (and frequently used) IP location with a device that it recognised. The password was changed at 19:32. And no other attempts were made to make payments.

PayPal says that the IP address used for the payments is one relating to a (mobile) service provider and it seems a broad geographical location where Miss B has accessed her account before. But my understanding was that the location may be a considerable distance from Miss B's home address, and I'd seen nothing to the contrary. So, I didn't think it has been established that she could have personally accessed her account from that other location and also logged in within this timescale at home. PayPal doesn't have details of the device used when the payments were made and doesn't appear to have asked the merchant for this. But it also seems to be accepted that Miss B was made aware of a text and immediately responded to this. That makes it less likely her own phone was being used for the payments based on the location information. PayPal has also said that the merchant involved doesn't have 'skip login' at check out. I took that to mean that even if Miss B had one button authorisation set up on her device this wouldn't have worked here. It hasn't provided evidence of that.

I'd looked at the details provided about the previous gambling payments made using Miss B's account. These were £20 on 4 April 2019, £10 on 3 February 2020 and £10 on 2 April 2020. The latter two payments were to the same company.

Based on what PayPal has provided the inference it seems it wanted me to draw is that Miss B gave someone else her log in details and these were used on a new device. But as soon as payments were made these were reported as fraudulent. I had no information about whether those payments resulted in any benefit for anyone apart from the ability to gamble. Once Miss B had contacted PayPal and changed her password payments stopped. But I wasn't clear whether the account was suspended or couldn't be used as I'd not seen any payment logs or information from the merchant. The alternative explanation and Miss B's position is that someone discovered her PayPal password and knew her email. I'd not seen anything to show that the extent of what was used was any more than that. And I thought that the compromise of a password used online is plausible. I appreciated that the payments disputed were limited to gambling ones.

I said I wouldn't be able to say *exactly* what happened and I was thinking about what is *most likely*. I considered that too much weight has been placed on the type of payments here by PayPal. And on Miss B's past (and limited) gambling activity. And that this has meant that insufficient evidence has been provided by PayPal about the authorisation of those

payments including information from the merchant involved. I also didn't find the evidence about the IP addresses assisted in showing that these were genuine payments. On balance I wasn't persuaded that these payments were consented to and so authorised by Miss B. And so, she shouldn't be held responsible for them by PayPal.

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.

PayPal said that it didn't agree with my decision. It maintained that it had provided compelling evidence to support its position. And that the correct position had been used and it had acted in accordance with its User Agreement.

Miss B didn't make any further comments.

I have already considered the evidence provided by PayPal. And I set out in my provisional decision how I'd assessed that and what additional evidence might have been of use. I've not had any specific comments on what I said or any new evidence. And so, I don't see a reason now to depart from my provisional findings.

My final decision

My decision is that I uphold this complaint and I require PayPal (Europe) Sarl and Cie SCA to refund Miss B with £550.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 24 January 2022.

Michael Crewe
Ombudsman