DRN-3370148

The complaint

Mr G complains that Monzo Bank Ltd failed to refund transactions that he didn't recognise.

What happened

Mr G has said that he noticed a payment to a company he didn't recognise, which I'll refer to as P. When the account was examined, there was a further earlier payment to P, made several days earlier. Mr G raised them with Monzo after trying to contact P about them. Mr G had also noticed earlier attempts by P to obtain payment, but they didn't go through because of a lack of funds in the account.

Monzo looked into the payments and saw that their records held two different names for the business that took the money (P). The name presented on Mr G's statement was different to the actual company responsible for the payments - a short-term loan company. Monzo explained this to Mr G and asked him if he knew either of the businesses. Mr G told Monzo that he hadn't had any dealings with either of them.

Monzo confirmed to Mr G that the payments were made using his debit card and looked into the transactions. Monzo identified other activity on the account related to loan enquiries, so they thought the payments to P weren't unusual. They also thought that the way the account was funded allowed these payments to be made, because funds were received into the account on the day these payments to P (amongst others) were made. Monzo also said that Mr G's card was "unfrozen" prior to the first successful transaction and that he was using his Monzo app throughout the time these transactions left his account so would probably have been aware of them. Monzo believed Mr G was responsible for making them and declined to refund him.

Mr G was unhappy with how Monzo had handled his issue and made a complaint, believing that Monzo were responsible for using his card details to make the payment. Monzo didn't change their position and Mr G brought his complaint to our service for an independent review, where it was looked into by one of our investigators.

Our investigator thought that it was reasonable for Monzo to hold Mr G liable for the transactions, noting that Mr G hadn't given his card or details to anyone else and still had them in his possession. They further noted that Mr G had only one device connected to his account and was using the app when these payments were made. They were satisfied that Mr G was the only person who had access to his device and the disputed transactions were unlikely to have been made by an unknown third party.

Mr G disagreed with the investigators outcome and asked for a further review of the complaint which has been passed to me for a decision.

Further enquiries were made with P, who confirmed they'd had an application from Mr G, but this was unsuccessful, and they also confirmed receiving the payments from his debit card, which were authorised with a continuous payment authority. P later provided details of the account held with them that received the funds from Mr G's Monzo account.

I issued my provisional decision where I said:

The relevant law surrounding authorisations are the Payment Service Regulations 2017. The basic position is that Monzo can hold Mr G liable for the disputed payments if the evidence suggests that it's more likely than not that he made them or authorised them.

Authorisation is made up of two parts. Authentication and consent. Authentication is usually referred to as the technical evidence and in this case, Monzo have supplied evidence that shows the disputed payments were made using Mr G's card details to set up a continuous payment authority. I'm satisfied the evidence shows the disputed transactions were authenticated.

Consent refers to the way in which Monzo and Mr G agreed to operate the account to allow Monzo to make payments on Mr G's behalf. For example, Monzo's terms and conditions set out that if a payment is made online and the account holder provides details of their card and any other information the merchant requires to confirm the payment, then Monzo accept that the instruction to make the payment is authorised by the account holder. So, because Mr G's card details were used to confirm payment with P and a continuous payment authority was created, I'm satisfied that consent was given, and the disputed transactions were authorised. But, there are exceptions where it wouldn't be appropriate for Monzo to hold Mr G responsible, for example if his card details were used without his permission.

Mr G has maintained that he hadn't had any contact with P or made any payments to them. But, when P was asked about the payments, they were able to say that Mr G had made an unsuccessful application to them. This was prior to the first attempted use of his card details to take payment from his account. P were able to provide details of the account that received the funds from Mr G's Monzo account and this matches one of the accounts that regularly transfers money into Mr G's account. So, I think that Mr G would likely have been aware of these payments because before funds were paid out to P, they were first received into his account.

I've also looked at how Mr G used his account, including the two days when the disputed transactions were made. The account was recently opened and shows that Mr G received incoming payments from various sources, and these were then transferred out, usually on the same day, resulting in the account balance being either zero or near to zero. The same happened on the days of the two transactions where Mr G received incoming payments and then transfers were made to other accounts. Because the accounts were effectively emptied on these days and some of the payments leaving the account used the Monzo app, I think it's likely that Mr G knew about the payments to P.

I say that because on the first successful payment to P there was a balance of £101 after that payment and this remaining balance was then transferred to another merchant using a faster payment – which would have required the use of the Monzo app to send this money.

So, because the exact remaining balance was transferred to the other merchant after the payment to P was made, I find it to be unlikely that Mr G wasn't aware of the payment, although he didn't contact Monzo for some days about it until the second payment left his account.

A similar series of transactions happened on the day of the second payment to P, which were funded by an incoming transfer of funds, followed by several payments to different merchants, including P or bank transfers – resulting in a zero balance – before being funded by a further incoming payment and the account was then taken back to zero by further outgoing payments.

Mr G confirmed that no one else had access to his mobile device or knew his security details, so it seems unlikely anyone else could access the account. Records also show Mr G was actively using his banking app when payments were made to P – so I think he would have been aware of these payments leaving his account at the time they were made.

It seems unlikely that Mr G didn't know about these payments because he was using his remaining balance to empty or nearly empty his account – which I think indicates he was aware of these payments. The payments were sent to an account with P that matches the name of a regular depositor into his account and think it's more likely than not that he was responsible for them. My current thinking is that I don't intend to uphold this complaint.

I invited Mr G and Monzo to give me any more evidence and information they wanted me to consider before issuing my final decision. Monzo didn't have anything further to add and Mr G accepted my provisional 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.

Having done so, and as Mr G accepted my provisional decision, I see no reason to reach a different conclusion. So, this final decision confirms the findings set out in my provisional decision.

My final decision

My final decision is that I do not uphold this complaint against Monzo Bank Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 15 April 2022.

David Perry
Ombudsman