

The complaint

Mr L complains that Starling Bank Limited has unfairly dismissed his disputed transactions claim and has closed his account in the process.

What happened

Mr L has said his laptop was stolen on 16 April 2021, which he reported to the police in Ukraine where the theft occurred. Following this, four payments debited his current account with Starling Bank and went to his account on a betting website, which Mr L says he uses regularly to complete bet exchanges on, totaling £10,000. These were broken down as payments of £3,000 and £2,000 on 16 April followed by payments of £1,000 and £4,000 on 17 April. All were made using his card details. A further payment of £5,000 was attempted but Mr L had put a block on his debit card by that point.

Mr L contacted Starling Bank to request a refund of the disputed transactions. Mr L was unhappy with the length of time that Starling Bank took to complete its investigation and felt that a fraud dispute should have been raised immediately, and not a card dispute which he believes was raised.

Starling Bank confirmed that it had followed the correct process when dealing with the disputed transactions claim. And it concluded that due to the spending patterns of the disputed transactions matching that of Mr L's genuine spending, it would not be refunding the transactions. It believed Mr L authorised the payments himself. It also made the decision to close Mr L's account in June 2021.

Mr L referred his complaint to our service. After looking into the complaint, the adjudicator agreed that Starling Bank acted reasonably when it decided not to refund the disputed transactions, and that it had closed the account in line with the account terms and conditions. She said that she would have expected Mr L to report the matter to the bank as soon as he lost his laptop, but he didn't do so for two days. And she could see no benefit from anyone other than the genuine cardholder accessing the betting account as any winnings would have to be returned to the same bank account. Finally, she felt that the pattern of the disputed transactions was not typical of a fraudster as often they will use as much of the available funds as quickly as possible. But here just over £9,000 remained in the account and only the four payments were made.

Mr L disagreed with the adjudicator's findings. He explained that as he had only lost his laptop and not his debit card, he saw no reason to refer the matter to the bank as he didn't think anyone would be able to access his funds. And that while the merchant is primarily a betting website, he uses it as an exchange, which acts more as a trading platform. Because of this, it is possible for someone to use the funds in his online account to drive up odds and benefit a third party. Finally, he said that it would seem more logical for a fraudster to try and make payments in a pattern that weren't typical to fraudulent payments to stay undetected.

for longer.

As an informal agreement couldn't be reached, the complaint has 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.

Having done so, I think Starling Bank's decision not to refund the disputed transactions is reasonable in the circumstances, so I don't uphold the complaint. I'll explain why in more detail.

Generally, Starling Bank is able to hold Mr L liable for the disputed transactions if the evidence suggests it's more likely than not that he made or authorised them himself. This position is confirmed in the Payment Service Regulations 2017 (PSRs) and the terms and conditions of his account.

From what I've seen, both parties agree that the payments were made via the merchant website using the genuine card details that had been securely saved onto the website. While this is important, it isn't enough on its own to say Mr L is liable for the transactions. Starling Bank also has to show it's more likely than not that Mr L himself made or otherwise authorised the transactions.

Mr L has said that his laptop was stolen on 16 April 2021 and that his last genuine transaction was a payment to a taxi company that day. He's said that his laptop had a password, but the fraudster was able to bypass this to get into his laptop. Once they had access, he believes the fraudster was able to find his online account with the merchant and that with enough technical knowledge, could use the web browser in such a way to locate the password for his account. Mr L says he discovered the disputed transactions on 18 April 2021 and contacted Starling Bank via his banking app. He also blocked his debit card to prevent further transactions.

It's not possible for me to know exactly what happened, so I've considered all the evidence available to me to consider what I think is *more likely than not* in the circumstances.

I accept that it's not impossible someone stole Mr L's laptop and was able to bypass its security by hacking his password – therefore gaining access to his laptop.

I agree that it's not impossible, though I think unlikely, that someone was able to hack the web browser on the laptop to show them Mr L's log in details for the betting website and gain access to his online account.

I also agree that it is not impossible someone could find a way to benefit from using someone else's betting exchange, though I think this wouldn't be common knowledge to most people.

But in order for me to agree with Mr L, I'd have to think it's more likely that the individual who stole Mr L's laptop had the technical ability to hack into his laptop, then happen across his betting account and also have the technical knowledge to manipulate the web browser to

gain access to his account. And that this individual also understood betting exchanges and how they work and immediately started crediting the account in order to make use of it. When you compile this sequence of events, the testimony becomes less and less likely. In addition to this, my understanding is that it's more likely the fraudster would also have needed the card verification value, or the 'CVV', which is the three digits on the back of Mr L's physical debit card to complete the payment on the web browser. As Mr L says he still had his debit card, this again makes the scenario outlined above less likely.

Mr L doesn't dispute that he regularly uses the betting website, though I do appreciate that he doesn't view his activity as gambling. The disputed transactions match with his previous patterns of spending in the months leading up to them. A notification was sent to Mr L five hours after the first disputed transaction saying that a credit of £6,034.51 from the betting website would be applied to his current account when Starling Bank receives it. I understand that Mr L has said he didn't receive notifications on his phone, but this shows that the individual making the transactions also requested for £6,034.51 to be returned from the online betting account to Mr L's current account. Mr L has said this could be the fraudster trying to make the spending look legitimate. But when I consider the series of events as a whole, as well as the pattern of transactions looking like previous genuine transactions by Mr L, it also looks more likely the credit was as a result of genuine activity on the betting website by Mr L. If it were an unknown fraudster in operation, it would seem more likely than not they would have tried to recycle any funds credited to Mr L's account and it would also seem that such credits would be counter to what Mr L says the fraudster was trying to achieve.

I note that Starling Bank highlighted Mr L had a similar disputed transaction claim with a third-party Bank. This said that a payment had been made to a gambling website from Mr L's account with the third-party bank, after his laptop had been stolen. The claim stated that the fraudster accessed Mr L's laptop which had some banking details on it, and that he didn't make the deposit to the betting account himself. But this occurred a month before Mr L's claim with Starling Bank, so they are separate incidents. Mr L has said he doesn't have an active account with the third-party Bank, so he can't contact them for further information about this incident. While it's possible that Mr L could have had another account where fraudulent activity occurred - I think it's very unlikely that such a similar claim would happen in such a short space of time.

So, on balance, having taken everything available to me into consideration, I think it's more likely than not that Mr L himself authorised or otherwise made the payments to the betting account. So I think Starling Bank's decision not to refund the disputed transactions is reasonable.

Account closure

I also note that Mr L's account has since been closed by Starling Bank. Mr L has mentioned that this made dealing with the claim for the disputed transactions more difficult. Having carefully reviewed the evidence, as well as the terms and condition of the account, I think Starling Bank acted fairly and reasonably when it gave Mr L seven days' notice of account closure. While this may have made the disputed transactions claim more complicated to deal with, I don't think Starling Bank has made an error in the circumstances.

My final decision

I do not uphold Mr L's complaint against Staling 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 August 2022.

Rebecca Norris
Ombudsman