

The complaint

Miss K has complained that Revolut Ltd won't refund her for transactions she says she didn't make or authorise.

What happened

Miss K has an account with Revolut.

Between 12 and 13 July 2022, a series of transactions were made to two individuals which I will refer to as O and P. The transactions were made using Revolut's online Banking app using Miss K's mobile phone.

Miss K has explained that her mobile phone and banking app are protected with a PIN. The PIN for her mobile phone and banking app is the same. She's also said she has never disclosed the PIN to anyone else and is still in possession of her mobile phone.

Miss K says during the time the disputed transactions were made she 'was out and about' and went to a party with a friend, where she says they ended up being befriended by two men. She says that the men 'wined and dined' her and her friend. And she eventually ended up at a house where she was assaulted by a woman and had her car stolen.

Miss K has explained that she doesn't know O or P. And she can't explain how someone was able to get hold of her mobile phone to make the transactions. She's also said that she believes her drinks were spiked whilst she was out and that she's reported everything that happened to the police. Miss K suspects that the disputed transactions were made by the people she'd met whilst out with her friend. But she can't explain how they managed to get hold of her phone and find out the details of her PIN. And then carry out the transactions on her account.

An undisputed transaction was made at 9.08pm on 12 July 2022, when Miss K transferred just over £8 to her savings pot. Three disputed payments were then made later that evening to O between 11.04pm and 11.11pm, each for £2,000. Thirteen further transactions were then carried out on 13 July 2022 just after midnight until just before 1.00am, for between £50 and £1,000. All the transactions were made using Miss K's mobile phone.

Following these transactions on 13 July 2022, at 2.06am a disputed transfer of £500 was made to P. Following this Miss K made in excess of twenty undisputed transactions on her account including transferring money into her savings pot using her mobile phone, ATM withdrawals, and several card payments at various retailers. These were made between 3.12am and 10.00am. Then at 10.01am, and 10.16am two disputed transfers were made to P for just over £1,000 in total, again using Miss K's mobile phone. Following this Miss K made numerous undisputed transactions throughout the rest of the day. And the following day up until 14 July 2022 at just after 2.30pm.

Miss K says she reported the fraud to Revolut via its in app chat facility on 14 July 2022 at 3.14pm when she returned home and checked her account. She explained to Revolut that she didn't know O or P and hadn't made the transactions to them.

Revolut investigated and decided not to refund the disputed transactions. It concluded that Miss K had made the transactions herself. In summary it said there was no obvious point at which Miss K's PIN could have been compromised. And that all of the transactions had been made using Miss K's registered mobile phone via online banking.

Revolut say that the mobile banking was accessed through a security PIN code being entered and new payees being set up. Revolut says there was no other way for anyone other than Miss K to have authorised the activity she is disputing. Because of this Revolut said Miss K is liable for the transfers that were made.

Miss K disagreed with Revolut's decision. So, she brought her complaint to this service where one of our investigators looked into the matter.

Based on the evidence, the investigator thought Miss K had authorised the transactions. In summary he said:

- There was no plausible explanation for how an unknown third party was able to gain access to Miss K's mobile phone and become aware of her PIN needed to unlock her mobile phone and access her online banking app.
- There were numerous undisputed transactions in between the disputed transactions.
- The disputed transactions reduced Miss K's balance considerably, but she didn't report the matter until after the last disputed transaction had been made.

Miss K disagreed. She said she has been the victim of fraud. And that Revolut should have noticed the disputed transactions and stopped them leaving her account. She also said she didn't tell Revolut about her suspicions about how the disputed transactions had taken place because she was reporting things through an in app chat and felt like she was talking to a robot.

As no agreement could be reached the matter has come 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.

When considering what's fair and reasonable I am required to take into account, relevant law and regulations, the regulator's rules, guidance and standards, codes of practice, and where appropriate what I consider to have been good industry practice at the relevant time.

Where the evidence is incomplete, inconclusive or contradictory, as it is here, I've reached my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

The relevant regulations, in place at the time, are the Payment Services Regulations 2017 (the PSR's 2017). Generally speaking, if the evidence suggests it's more likely than not that Miss K authorised the payments, Revolut is entitled to hold her liable. If a payment transaction wasn't authorised, the payment service provider must refund the unauthorised payment transaction to the payer, and where applicable restore the account to the state it would have been in had the unauthorised payment transaction not taken place. If a payment service user (customer) denied having authorised an executed payment - the payment service provider (in this case Revolut) has to prove that the payment transaction was authenticated and consented to.

Revolut say the evidence suggests the disputed transfers were made by Miss K. Miss K says she didn't carry out, consent or authorise the transfers. And is seeking a refund of the transfers made from her account. So, in this case I need to think about whether the evidence I have suggests the disputed activity was more likely than not carried out by Miss K or carried out with her knowledge and consent.

Revolut have provided technical evidence to show what mobile device Miss K had registered in July 2022. The same mobile device was used before, during and after the disputed transfers. It was also used by Miss K to report the disputed transactions on 14 July 2022. Revolut has also provided records to show the dates and times Miss K logged into her account and how access was gained. And its provided statements of all the transactions on Miss K's account.

I've looked at the technical evidence provided by Revolut. I can see that all the disputed transfers were made through the mobile banking app and each time it was accessed through Miss K's registered mobile device. The records show that each time mobile banking was accessed for a transfer to be made, Miss K's correct security details (her banking PIN) was entered to gain access to the online banking. So, I'm satisfied that Miss K's mobile device was used when the disputed transfers were made, and that the transfers were 'authenticated' as Miss K's correct security details were entered, to access the online banking and make the transfers.

This means I now need to determine whether I think it's more likely than not that Miss K or someone with her knowledge and consent carried out the disputed activity, or whether I think it was carried out without her knowledge and consent.

Having looked at all the evidence, on the balance of probabilities, I'm satisfied that Miss K more likely than not, did consent to the transactions she is disputing. I say this because:

- The disputed transfers were all conducted through mobile banking on Miss K's registered mobile device
- Miss K says her mobile phone remained in her possession throughout the period in question. And says she hasn't shared her mobile banking PIN with anyone. So, there's no plausible explanation for how someone was able to become aware of her PIN
- The disputed transactions took place over two days during the early hours, late at night or early morning. This would mean a third party would have to take and replace Miss K's mobile phone without being noticed over two days at different times. They would also have to have obtained Miss K's security details (Miss K's PIN).
- I don't think that an unknown third party would risk taking Miss K's phone, replacing it, taking it again, completing further transactions and then returning it. This back and forth would've created an unnecessary risk of alerting Miss K that fraudulent transactions were taking place. I've also noted that at one point the unknown third party would have had to be in possession of Miss K's mobile device for just under an hour on 13 July 2022 when thirteen disputed transactions were made between just after midnight to just before 1.00am – I think it's unlikely Miss K wouldn't have noticed this given the frequency she used her mobile phone to access her account.
- Miss K made a high volume of undisputed transactions from her account including online transfers during the period the disputed transactions were made. But she didn't notice the transactions and report them to Revolut.
- The disputed transactions reduced Miss K's account balance significantly, yet she didn't dispute the transactions until 14 July 2022 hours after the last disputed

transaction had been made, and after she'd made undisputed transactions. So, I think she would've noticed the transactions much sooner than she's said she did as her account balance was reducing significantly over the period.

- I realise it's possible someone could've accessed Miss K's mobile phone whilst she was out and about, however, there's no explanation for how someone could've accessed the mobile banking app without Miss K telling them the PIN. I also don't think it's plausible, based on what Miss K has told us she was doing at the time, as it would mean Miss K was present at the time the unknown third party had her mobile device and was carrying out transfers while she was unaware.
- Also if an unknown third party had managed to gain access to Miss K's mobile phone and banking PIN, I think it's likely that they would have maximized what they could take out of the account on the first opportunity, rather than making numerous transactions over a period of time and increasing the risk they could be caught.

So, when I weigh everything up, I don't find it likely that an unknown third party obtained Miss K's mobile phone on multiple occasions and made the disputed transfers without her consent. I'm also mindful that there were transfers that Miss K isn't disputing that happened in close proximity to the transfers she is disputing. Having looked at the activity on the account, the times the online banking was accessed (through Miss K's registered device), the method of entry to gain access to mobile banking alongside the undisputed transfers, I think it's more likely than not that the disputed activity was carried out by Miss K or carried out by someone with her knowledge and consent. So, in the circumstances it wouldn't be fair for me to ask Revolut to refund Miss K.

Lastly, I can see that Miss K has made a number of comments to the effect that Revolut should have spotted the transactions and stopped them from going through. Especially as the transactions reduced Miss K's balance quickly and significantly. So, she says Revolut should have intervened, blocked her account, and contacted her about the transactions. But because I'm satisfied that it's more likely than not that Miss K authorised these transactions, I don't think any intervention on its part would've made a difference here.

In summary, I know how strongly Miss K feels about her complaint, and I realise my decision will be a very disappointing outcome. I can't know for sure what happened here, and I have to be guided by the available evidence. Unfortunately, I find that the weight of the evidence doesn't demonstrate that these payments were unauthorised.

My final decision

For the reasons I've explained, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 7 February 2023.

Sharon Kerrison
Ombudsman