

The complaint

Mr W complains that Starling Bank Limited won't refund disputed payments made from his current account.

What happened

On 13 March 2021 a payment for £140 was made from Mr W's current account to an online gambling company, he says he did not authorise this payment. Mr W says he received a notification from Starling that this payment had been made and so blocked his card – preventing a further six transactions to another online gambling company that were then attempted. Mr W contacted Starling to say he had not authorised any of these payments.

Starling investigated and decided not to refund the disputed withdrawals. It said there was no evidence of fraud.

As Mr W didn't agree with Starling's decision, he asked us to investigate.

Our investigator didn't recommend the complaint should be upheld. In summary, they felt it was more likely that Mr W had authorised the transactions. Specifically, they noted that there was no clear way that Mr W's card details could have been compromised, and that the disputed payments were not indicative of fraud as there was no clear way for a fraudster to benefit from them.

Mr W disagreed, he said that his details might have been compromised through a potentially fake website he used, and he also noted that a payment for £1 had again been attempted on his old card a year after the disputed transactions. Our investigator didn't feel that either of these points changed their findings.

As no informal agreement could be reached, the complaint has been passed to me.

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, my review of the evidence has led me to the same overall conclusions as the investigator previously set out.

Generally, Starling is able to hold Mr W 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.

So, the key question here is whether Starling has acted fairly in concluding that Mr W did authorise the disputed payments.

I'm satisfied from the bank's technical evidence that Mr W's genuine card details were used to make the disputed transaction and that the payment was correctly authenticated. But the regulations relevant to this case say that is not, on its own, enough to enable Starling to hold him liable. So I also need to think about whether the evidence suggests that it's more likely than not that Mr W consented to the payments being made.

From what I've seen, I don't think it's unreasonable for Starling to conclude that Mr W authorised the transactions. This is because:

- The gambling account the payments were made to was in Mr W's name, with the correct date of birth, address, and postcode
- I can't see why a fraudster would have chosen to use Mr W's account in this way - any winnings from the gambling account would have come straight back to Mr W's Starling account, and if a fraudster did have access to his card details it's not clear why they wouldn't have just spent the funds already available in Mr W's account rather than carrying out gambling transactions that there was unlikely to be any benefit from
- Mr W has said he didn't have the physical bank card at the time of the disputed payments, but the card was sent to his home address, and activated via the Starling app. And only one device – Mr W's phone – was set up on his account with the app.
- I also note that Mr W was sent a notification by Starling on 11 March 2021 to say his card had been activated, if Mr W hadn't received his card at that stage – and so hadn't activated it – then it's not clear why he wouldn't have questioned this notification at the time.

I acknowledge what Mr W has said about how his details might have been compromised via a fake website, but he's not provided any evidence to show exactly what might have happened here. And in any case, it seems unlikely that a third party who obtained his full card details, home address, and birth date via a phishing attempt would then go on to use those details to just make some gambling transactions that they could not clearly benefit from.

I've also noted Mr W's comments about the more recent attempted payment for £1. Mr W says this is proof that his card details were compromised in some way. But Starling has shown that this transaction was made using details held on file by the merchant, so this is not necessarily evidence that Mr W's old card is being used again by a fraudster, and consequently this doesn't change my overall findings here.

Taking everything into account, I think, on balance, that Mr W more likely than not authorised the disputed payment. It follows that Starling is entitled to hold him liable for it.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 14 November 2022.

Sophie Mitchell
Ombudsman