

The complaint

Mrs K complains that Barclays Bank UK PLC won't refund money she didn't withdraw from her account.

What happened

Mrs K says that her card was snatched on 1 February 2022 when she was using a cash machine. And that the people that had distracted her must have seen her PIN being entered. There was a cash machine withdrawal from her account for £500 before she could report what happened to Barclays. And although this was refunded on a temporary basis Barclays took this back and this has left Mrs K with financial problems and not able to pay her bills.

Barclays said that it wouldn't be refunding the money. It noted that the PIN on the card had been changed on 1 February 2022 at 14:08. The disputed withdrawal was made at a different cash machine at 14:16. There had been multiple log ins to mobile banking and money had been left in the account. It held Mrs K liable for the payment.

Our investigator didn't recommend that the complaint be upheld. A balance enquiry using Mrs K's card had been made at 14:01 that day. She'd said she hadn't changed her PIN. And so, our investigator couldn't see why the fraudster would have done so having waited to use the same machine again at 14:08 as Barclays has shown. That was seven minutes after Mrs K had said someone had taken her card and run off with it and there'd been other people around and witnesses.

The limit for withdrawals at a cash machine had been increased from £300 to £500 using the app at 14:15. And Mrs K hadn't reported what happened until 14:58 when the card was marked as stolen. She'd explained that she'd run home to get her mobile phone that had the app, didn't know how to block the card and then got a bus and walked to a branch. There was still money in the account. A fraudster would have known this because there were further balance enquiries and so would likely have taken it. And although Mrs K had said she'd reported the matter to police there was no information to show that any action had been taken or that a theft had been confirmed. She didn't find Mrs K's explanation of events to be plausible.

Mrs K didn't agree and wanted her complaint to be reviewed. She said it wasn't her fault that the money was taken out or that she'd been confused given what had happened. And that she'd been through a lot as a result. The thieves had known what they were doing, and other people had been targeted locally too. Mrs K said that no one could understand things unless they'd had personal experience. And she'd reported it to police, provided a crime number and asked us to help her. She needed to get this money back.

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.

I need 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 a card and PIN. And if it wasn't authorised Mrs K wouldn't generally be responsible for it.

So, I will be thinking about the following areas in looking at this complaint:

- What is the most likely explanation of what happened to the card and PIN used for this payment?
- Did Mrs K authorise the payment on the account and which could have involved allowing someone else to use the card?

Through our investigator I asked Barclays for some more information and for a further explanation of its position on the complaint. It provided some details about the registration process for mobile banking. I'd also noted that in the final response to Mrs K it had referred to there not being any balance enquiries or subsequent attempts to use the card which didn't seem right. It didn't make any comments about that or have anything else to add about its decision.

I make clear that I am only looking at the circumstances of this specific complaint and note that Barclays settled a dispute about the transfer of money from one of Mrs K's children's accounts it seems in branch at around the same time. I won't be able to say *exactly* what happened and I'm thinking about what is *most likely*.

This cash withdrawal that's disputed required the genuine card and correct PIN. And as the investigator's referred to the card was also used for balance enquires around this time. So, I'm satisfied that the payment was authenticated.

The issue is whether Mrs K consented to it. I am going to be picking up on a number of points already made by our investigator which I think are most relevant to that.

Mrs K says she had last made a genuine cash withdrawal on 29 January 2022. The evidence from Barclays confirms that her card and PIN were entered to make a balance enquiry on 1 February 2022. Mrs K says she hadn't got this far and one of the men behind her had banged on the machine and taken her card. The evidence provided by Barclays confirms the PIN change on 1 February 2022. In any event there's a gap between the balance enquiry which Mrs K says she didn't get to complete as her card was taken and then the PIN change which she says she didn't do. I also agree that anyone that had taken her card and seen her PIN wouldn't likely remain in the same area especially as Mrs K explains there were witnesses.

I'd have expected it to be most likely that as much money be taken as quickly as possible. There were two balance enquires between 14:13 and 14:14 at a different location about half a mile away. The limit was increased using the app at 14:15 and the money taken out just before 14:17. There's no explanation how a fraudster would have been able to access Mrs K's account online to increase the limit as she said she'd kept her security information safe. And that's a very calculated thing for an opportunistic thief to do in such a short space of time. A balance enquiry would have shown that there was still over £700 in the account after the withdrawal. So, I'd have thought it most likely the card be used for a purchase or to access the account through the app if a fraudster had somehow gained access.

During this time a fraudster would expect the card to be reported stolen and would want to act quickly and wouldn't anticipate it taking over 50 minutes for Mrs K to do this. On her account she'd gone what seemed to be the relatively short distance home and then to a local branch. That does seem to have taken longer than might have been expected although didn't affect the amount disputed.

As I say it's unclear why no more attempts to take out money were made sooner. The next wasn't until 15:54 when a withdrawal of £30 was declined and by then the card had been reported stolen.

On one hand and based on Mrs K's version of events there would have been some planning necessary to access and monitor her account including through the app. She'd told Barclays that this wasn't her. But on the other hand, if this had been a fraudster who'd somehow gained access to mobile banking then there were limited attempts to take as much money as possible. I take into account that Mrs K did report what happened to police and that an officer has subsequently confirmed this to our service and that there had been other similar reports around that time as Mrs K says. No action has been taken or any arrests made and there is no CCTV.

Having balanced all these factors I'm not persuaded that this withdrawal was most likely made without Mrs K's consent and so by an unknown third party. I'm afraid I think it's reasonable for Barclays to hold Mrs K responsible for it. I can appreciate how disappointed she'll be given what's at stake for her.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 22 February 2023.

Michael Crewe
Ombudsman