

Complaint

Mr P is unhappy that Revolut Ltd hasn't reimbursed him after he fell victim to a scam.

Background

The factual background to this case is well known to the parties so I don't intend to repeat it in full here.

Briefly, Mr P fell victim to what's known as a 'safe account scam'. A scammer called him and said that he was an employee of his bank's fraud team. They were able to 'spoof' the legitimate customer service number for his bank. They were also able to persuade him that the call was genuinely from his bank because they knew two businesses that he held an account with and the balance of those accounts.

He was told that two accounts that he held with other businesses had been compromised. In order to protect his money, he needed to move it into a designated safe account. He was told the compromise to his account was subject to an active police investigation. If he disclosed any of the details of what he was doing, he was told there could be adverse consequences for him. He was asked to transfer funds to his account with Revolut. From that Revolut account, he made transfers to an account controlled by the fraudsters. In total, he transferred just under £35,000.

Revolut didn't think it needed to reimburse him. It said that Mr P had ignored warnings when making the payments. It also pointed out that it identified these payments as being out of character and that there was a risk of a scam. It paused the payments and asked Mr P to answer some questions about them and speak with one of its agents via the in-app chat function. It considered that, even if it had done more to intervene in connection with these payments, Mr P was determined to make them and so there was little it could've done.

Mr P was unhappy with the response he received from Revolut and so he referred a complaint to this service. It was looked at by an Investigator who upheld it.

The Investigator thought that, if Revolut had questioned Mr P on the payment, it would've been able to identify that he was likely falling victim to a scam. The scammers had given him a cover story but it wasn't particularly detailed. She thought it was likely he'd have struggled to think on his feet if an employee of Revolut had asked him about the reasons for making the payment. She was also satisfied that Mr P shouldn't be considered partially responsible for his losses.

Revolut disagreed with the Investigator's opinion, and so the complaint has been passed to me to consider and come to a final decision.

Findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

The starting point in law is that Mr P is presumed liable for these payments because he authorised them. However, Revolut was also expected to:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

In summary Revolut was expected to be on the lookout for account activity that suggested an increased risk of fraud. I'm satisfied that it should've recognised the increased risk here. These were large payments made to new payees and there were multiple payments in quick succession.

I agree with the Investigator that Revolut ought to have questioned Mr P about the reasons he was making this payment. The cover story he was given wasn't particularly detailed and so it should've been possible to spot that he was struggling to improvise answers to questions on the spot.

Revolut has argued that, since Mr P didn't properly engage with it when it tried to communicate with him via the in-app chat, it was highly likely he'd have just wanted to proceed with the payments anyway. Revolut wouldn't have been able to dissuade him from going ahead. But I think it's important to note that Revolut could've temporarily blocked the payment and only agreed to consider releasing it if Mr P spoke to one of its agents in the app. Having successfully identified that there was an increased risk of fraud with these payments, I don't think it should've agreed to go ahead with them until it had taken reasonable steps to satisfy itself that Mr P wasn't falling victim to a scam.

I've also considered whether Mr P can be considered partially responsible for his losses. In doing so, I've considered what the law says about contributory negligence but also borne in mind the fact that I must reach a decision based on what I consider to be fair and reasonable.

The scammer was able to persuade him that the call was from his bank by spoofing their genuine number (something which he wasn't aware was possible) and knowing personal information about him that he assumed only his bank could know. I don't think he can be said to have been contributorily negligent because he believed that the call originated with his bank.

All the actions he subsequently took must be seen in that context – i.e. that he sincerely believed he was following the instructions of his bank's fraud team. It is true that he chose an inaccurate reason for making the payment and that some of the warnings that were displayed contained content that was relevant to this particular type of scam. But it's a commonly occurring feature of many APP scams that a customer is told an active investigation means they must not be candid with their bank about their reasons for the payment.

If I've accepted that Mr P wasn't careless in believing that he was genuinely taking a call from his bank, I don't think I can reasonably say that he was careless for acting on the advice he believed his bank was giving him. Overall, I'm satisfied that Mr P can't be considered partially responsible here. He was simply the unwitting and blameless victim of a cruel and cynical scam.

Final decision

For the reasons I've set out above, I uphold this complaint. If Mr P accepts my decision, Revolut Ltd should refund the payments he made to the scammer.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 7 April 2023.

James Kimmitt
Ombudsman