

The complaint

Mr J complains that Revolut Ltd won't refund card payments he says he didn't make from his account.

What happened

Mr J explains he was staying in a city abroad. He had two Revolut cards with him. And the one he had as a backup was taken. He says that card was used by someone else to make payments on 7 March 2022 that came to just under £905 (sterling equivalent.)

Revolut said it wouldn't be refunding the payments. It said that the payments were made with the card and the PIN. And that there wasn't a basis to raise chargebacks.

Our investigator didn't recommend that the complaint be upheld. This was after Revolut had provided audit information which showed that the first disputed payment required the PIN. She noted that both of the cards were being used in different parts of the city at the same time. But Mr J had confirmed that he hadn't shared the PIN with anyone or written it down. So, she concluded he'd most likely consented to the payments which might have included allowing someone to use the card.

Mr J didn't agree and wanted his complaint to be reviewed. There were fraudulent payments all over the city abroad within minutes of his genuine ones and his friends could act as witnesses. The first attempt to use the card was declined due to an incorrect PIN. And he'd discovered that his friend's credit card had also been stolen he thinks from their hotel room. He had no reason to make a fraudulent claim and others could vouch for his integrity. If there was no possibility that the PIN had been discovered then he thought that the information from Revolut about the PIN use was unreliable. He wanted these possibilities to be considered.

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 won't be able to say *exactly* what happened and I'm thinking about what is *most likely*.

Through our investigator I asked both Revolut and Mr J for some more information and I appreciate the further responses. I now have what I need to make a decision on this complaint. I'll refer to the information I've relied on below.

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 they weren't authorised Mr J wouldn't generally be responsible for them.

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 these payments?
- Did Mr J authorise the payments on the account or allow someone else to use the card?
- And if he didn't authorise the payments then did he take sufficient care of his card and PIN as Revolut says?

I'm satisfied that these payments were made with the genuine card and included the chip being read. I can see as Mr J says that an initial attempted payment with the card was declined because of an incorrect PIN being entered. The audit information that Revolut has provided also shows that the first successful payment was made with the PIN. I know that Mr J doesn't think that this is correct especially as this was only provided during our investigation. But having reviewed this carefully I find that this does demonstrate that the PIN was required. I find that all the payments were authenticated.

The issue is whether Mr J consented to the payments and so authorised them.

As he's said Mr J had two cards from Revolut. One which he used as a main card for payments. And the other which he'd obtained as a backup. In his latest submission Mr J has explained that he believes the PIN on this backup card was the same as that on the main card. And Revolut has stated that this would have been set by him when the card was issued in February 2022. The PIN hadn't been changed since then.

Mr J has further said that all his cards and documents such as his driving licence were kept in a phone wallet. The main card was at the front and the backup card at the back. He hadn't moved the cards during his trip. And everything was left in his hotel room during 6 March 2022 while he and friends were running a half marathon. There was no safety deposit box. A friend who left her bag in the room later realised that her credit card had been taken but not used. When they came back to the room they saw a mobile phone had been left charging there which they thought was strange. And this seemed to belong to a member of staff who had cleaned the room and came to collect it. The following day they checked out of that hotel and moved to a different one and Mr J didn't leave any belongings unattended during this time.

Mr J says he didn't notice the backup card was missing because it was at the back of the wallet. And even when he first reported the dispute he believed the payments to have been on his main card and told Revolut that he still had this. He says that it was only after this he realised his other card had been taken.

I'd asked him what alerted him to the payments. And he said that on 8 March 2022 he'd tried to make a payment with the main card which was declined. He didn't point out which that was specifically, and I couldn't see any recorded attempts on his statement that day. He then raised the chargeback that afternoon and after that had been rejected had an online chat with Revolut. I can see from the card records that his back up card had been blocked online before that chat.

Mr J has again emphasised that he hadn't written the PIN down or disclosed it to anyone. He could remember it because it was significant to him. He didn't consider anyone he was in contact with on the trip could have taken the card and used it. And he didn't give anyone permission to do so. He'd used his main card while away and Revolut has said that there were transactions that likely required the PIN to be entered on 5 March 2022 and then on the morning of 7 March 2022.

I note that the first disputed use of the back-up card was in the evening of 7 March 2022. And the payments were at merchants outside the city. And I can also see that Mr J's main card was as he says used during this period for example at 20:01 and 20:12 while two

disputed payments were being made at 20:11 and 20:22. It does seem that the payments on the back up card were attempted until the balance had been used and payments had been declined. And I can see attempts to use this card for small payments on 8 March 2022 in the evening and then 9 March 2022 in the middle of day. Again, both of these were declined and there is no record of any attempted use of this card after that. I can see that there were declined attempts to use the main card for a small payment on 10 March 2022 back in this country and which Revolut says didn't go through as that card was blocked too. Mr J had contacted the authorities abroad and was told to report this loss when he returned home, and he's provided a relevant report number to show he did that.

I appreciate that Mr J thinks his card might have been taken on 6 March 2022 when he'd left it in the hotel room. That is possible but I'd expect someone in possession of the card to attempt to use this quickly as they'd risk discovery. And only one card was taken from his wallet and it's unclear why a third party would take this one and think that there'd be money on the related account. Although Mr J says his friend's card was taken there was no evidence of use of this. At other times on the trip the backup card was with him in a phone wallet. And it seems that even Mr J wasn't really aware when it was or wasn't there. He would have no reason to take that card out of his wallet as he didn't use it. And I'm unclear anyone else would even know about this card as Mr J says he'd only used it when first issued to him.

I need to think about the use of the PIN. Again no one would it seems know that it was the same as that on the other card. I appreciate that there was an error with the first PIN attempt. But a third party would be highly unlikely to be able to 'guess' a PIN in two attempts even if there was some significance in the digits to personal information for Mr J. And if Mr J had somehow been observed when using his PIN with the main card, it's unclear how a person doing so would end up with his back up card and then decide to use that.

My assessment of the scenarios

A possibility is that an unknown third person was able to obtain the card and the PIN and then use this. The pattern of payments and use is consistent with this especially as Mr J says he was using the other card at the time and there were relatively large payments and then unsuccessful attempts. As I said above I think it unlikely if the card had been taken from the room there would have been a delay in using it. And there is no explanation of how such a person would see the PIN. Even if they had seen that and the main card being used it is unclear how they would then get access to this card and decide only to take a card that was at the back of a phone wallet when the main card was visible at the front.

Mr J is adamant that no one known to him or in contact with him during the trip could have taken the card without him knowing, discovered the PIN and used it. The use of the back up card rather than the main card could suggest a person involved had some knowledge of Mr J and had been able to observe him using the PIN on the main card. And would potentially know his movements during the trip. But Mr J doesn't think that this is an explanation and again there is no clear way in which the PIN was discovered and would be known to be the same as that on the other card.

Revolut considers that if Mr J didn't make the payments then he didn't take sufficient care of his details as he's reasonably required to do. But Mr J has ruled out the possibility of his PIN being discovered and has said he didn't write it down or tell it to anyone. So, I don't have a basis to think that this was the explanation.

I'm afraid having considered and ruled out a number of scenarios this leaves the most likely one in my view being that Mr J consented to this card being used in this way. Again, I know he strongly denies this and is upset by the suggestion. As I say I can't know exactly what

happened here. I appreciate he's given clear testimony and I've considered that carefully. But having weighed everything I think it was reasonable for Revolut to hold Mr J responsible for these payments for the reasons I've given.

I appreciate how disappointed he will be by this outcome given what is at stake for him.

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 Mr J to accept or reject my decision before 20 April 2023.

Michael Crewe
Ombudsman