

## **The complaint**

Miss Y complains that Monzo Bank Ltd failed to refund transactions she didn't recognise.

## **What happened**

### *What Miss Y said*

Miss Y had a friend round who asked to borrow her phone to make a call to her parent and order a taxi. Miss Y believed the original time the phone was with her friend was for ten minutes, but later this was reported as two periods of about 30 mins each time before getting her phone back.

Later the same day, Miss Y noticed a text from another bank on her phone that asked her to call them about some suspicious transactions. Miss Y then checked her other accounts and noticed unusual transactions. She called the police who attended her home. It was at that point that Miss Y realised her handbag containing her Monzo card was missing. Miss Y reported the loss to the police.

The following day, Miss Y contacted Monzo about the loss and confirmed to them that a number of transactions that had left her account the previous day weren't made by her. She believed that it was her friend who had made payments to another merchant using her card. These payments required the confirmation of a text message to her registered phone which had been actioned. Miss Y believes that it was her friend who had borrowed her phone to use it for these transactions which totalled about £600.

Miss Y asked for a refund and told Monzo that she'd already received refunds from other accounts that were used to make additional disputed transactions. Monzo looked into the matter and declined to refund them. Miss Y then raised a complaint with Monzo who maintained they wouldn't refund her. Miss Y then brought her complaint to the Financial Ombudsman Service for an independent review.

### *What Monzo said*

Monzo received notification from Miss Y that her account had been misused and asked her what had happened. They believed that Miss Y had changed her story because she told Monzo that her friend only had the phone for ten minutes, this later changed to about an hour over two separate instances.

Miss Y had also said her friend must have gone into her room (to discover her handbag with her account card in it), but later said it was in the hall. Due to these inconsistencies and the fact that the payments took place over the space of about an hour, they believed that Miss Y was responsible and declined to refund her.

### *The investigation so far*

After considering the evidence, the investigator didn't uphold it, commenting that:

- There were several inconsistencies in the version of events described by Miss Y.
- An unusually large deposit was made a few days before the disputed transactions took place.
- The scenario was implausible that her friend could keep the phone for so long without Miss Y noticing.
- The reason given for using the phone (calling a taxi/her relative) seemed unlikely that it would take so long.
- An element of planning would have been required to obtain the necessary items from Miss Y to succeed (an unlocked phone and access to her debit card and privacy whilst in Miss Y's home) which seemed unlikely given the casual nature of the visit.

Miss Y disagreed with the investigators outcome and asked for a review of her complaint which has now been passed to me for a decision.

### **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.

The relevant law surrounding authorisations are the Payment Service Regulations 2017. The basic position is that Monzo can hold Miss Y liable for the disputed payments if the evidence suggests that it's more likely than not that she made them or authorised them.

Monzo can only refuse to refund unauthorised payments if it can prove Miss Y authorised the transactions, but Monzo cannot say that the use of the card details for online payments conclusively proves that they were authorised.

Unless Monzo can show that consent has been given, it has no authority to make the payment or to debit Miss Y's account and any such transaction must be regarded as unauthorised. To start with, I've seen the bank's technical evidence for the disputed transactions. It shows that the transactions were authenticated using the payment tools issued to Miss Y. I'll now need to consider the information provided by both parties to determine whether there's sufficient evidence to hold Miss Y responsible for the disputed transactions or not.

Miss Y believes her friend was responsible for making these transactions and made a report to the police about it. This is important in the context of the complaint because if an investigation established the theft from Miss Y, it would support her version of events about the disputed transactions. Put simply, if the police's investigation backed up Miss Y's story, then her complaint would likely be upheld because it could be demonstrated that she hadn't authorised the transactions herself. Numerous attempts over a number of months have been made to contact the police directly or via Miss Y herself. To date, nothing has been provided from either party.

Looking at the information supplied throughout the complaint, it's apparent that Monzo believed Miss Y's version of events changed. They've said Miss Y told them her friend had her phone for ten minutes or so and later changed this to half an hour and she borrowed it on at least two occasions.

I recognise there will often be some differences in how an incident is recalled, particularly those experienced under stress, and repeated over a period of time. Here, the retelling of the

story was somewhat different, so it's not easy to unpick what actually happened on that day.

But, the "final" version she's told us about is plausible, because all someone needed to make these disputed transactions was access to her unlocked phone (which she already had in order to make a call) and her bank card (which Miss Y reported as stolen). I do have some reservations though, particularly the lack of third-party corroboration concerning the theft Miss Y reported.

To date I've not seen any evidence of a police investigation or heard their view about what happened. Whilst it's not my role to comment on a police investigation, I was surprised that no reports were provided, particularly as she knew who had taken her card and made those payments from her account. Miss Y also believed it was the same person who "hacked" her other accounts. Given the seriousness of the complaint and the known identity of the person (and her address) I would have expected some follow up and update be provided to Miss Y from the authorities investigations. Clearly Miss Y has no influence regarding the investigation of her complaint by the police, but the distinct lack of update means I haven't been able to corroborate the version of events Miss Y is relying on. I wrote to her explaining the situation that I would likely have some difficulty supporting her complaint without that corroboration. Unfortunately, I've heard nothing from Miss Y.

I also noted that Miss Y's account was mainly used to make payments from it (rather than as a main account that received regular income). It was "topped up" by transfers from other accounts as needed and most of those incoming payments were for relatively modest amounts. Three days before the disputed transactions took place, a larger transfer of £700 was paid into the account, essentially funding the disputed transactions.

Without those funds, the disputed transactions couldn't have taken place. There's only one other similar incoming payment (£700) made about ten months earlier and £600 of that was transferred back to one of Miss Y's accounts without being used. So, the funding payment can be seen here as out of the ordinary.

In summary, there are a number of factors here that I've considered:

- Miss Y's version of what happened evolved considerably.
- The lack of corroboration of her story.
- An unusual payment received into her account that funded the disputed transactions.
- A seemingly casual visit by a friend who was able to compromise several accounts and steal funds without Miss Y noticing.

Whilst I'm sure Miss Y will disagree with me, the evidence that I've considered leads me to the conclusion that, on the balance of probabilities, it was more likely than not that Miss Y authorised or allowed her card details to be used to make the payments. So, taking everything into account, I think it is fair and reasonable for Monzo to hold Miss Y responsible for these transactions.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss Y to accept or reject my decision before 8 December 2023.

David Perry  
**Ombudsman**