

The complaint

Mr H is unhappy that Monzo Bank Ltd won't refund a transaction on his account he says he didn't authorise.

What happened

In April 2022, Mr H received a call from someone pretending to be Monzo. He was told there was a pending transaction on his account, and they needed to verify his account as well as whether it was him making the transaction. He confirmed it wasn't him that attempted the transaction, so he was told to delete the app as it was no longer safe. On the same day an Apple Pay token was set up on a new iPhone device, and the following day a transaction was made for £9,496.

Mr H complained to Monzo about this payment. It concluded that it was authorised by Mr H as he approved the Apple pay token on the other party's device. But it paid him £50 compensation for the number of people who he'd had to speak to in order to raise this issue and his complaint. Mr H didn't agree with the outcome and came to our service.

When Monzo provided its file to us it recognised the payment wasn't made by Mr H, but instead said he was grossly negligent by approving the token on a different device to what he held. Our investigator didn't uphold the complaint. She couldn't be satisfied with how the Apple Pay token was set up on the fraudster's device without Mr H's involvement, so didn't feel Monzo were liable to refund his loss. She felt its offer of £50 compensation was fair in the circumstances. Mr H remained unhappy as he refutes authorising this transaction and so the complaint was passed to me for a decision.

I issued a provisional decision in mid-March; my provisional findings were:

...I'm minded to say Monzo is liable to refund Mr H for the following reasons:

- Monzo has now accepted this was an unauthorised transaction. In line with the Payment Services Regulations 2017, Monzo can only hold Mr H liable if he failed with gross negligence or intent. Here, it refused to refund him because it asserts Mr H failed with gross negligence to comply with the terms of the account and keep his personalised security details safe.*
- Having considered the circumstances carefully, I'm not persuaded that's the case. I'll explain why.*
- Mr H said the caller knew his name, address and card details. It's not clear how the fraudster knew this information, as Mr H hasn't said he responded to any phishing emails or text messages where he might've entered his details. But we know there are several ways this could've been obtained without Mr H's involvement. I'm satisfied in this case that the fraudster held this information already and so this is, in part, why Mr H was persuaded he was speaking to his bank.*

- *I accept what further persuaded him that it was his bank calling was because the fraudster tricked him into thinking a transaction had been attempted from his account, and so told him to decline this if it wasn't him. Which he duly did. Monzo appears to accept that Mr H did decline something in his app, so what the fraudster told him was happening was being replicated in his genuine banking app.*
- *Taking this into account, I can see why Mr H trusted the fraudster was calling from Monzo.*
- *The evidence shows that an Apple Pay token was approved and added to an iPhone device. Mr H has a Samsung phone, so we know it wasn't his phone that the Apple Pay token was added to. To add Apple Pay to a new device, it would require someone to add the card details to the new device, meaning the fraudster entered the card details into their device to start the process of setting it up. After that, Mr H would've seen a screen that said "Finish adding your card to Apple Pay". He would've then had to click "Add card" followed by entering either his PIN or using biometrics on the next screen. Mr H says he can't remember doing this or being asked to enter his PIN but if he did, he did so unknowingly.*
- *Monzo point out that Mr H ought to have questioned why he was setting up Apple Pay when he had an Android phone. I accept he could've done this, but I don't think him not doing so meant he was significantly careless here – to say that he failed with gross negligence.*
- *I accept in the moment, with the false sense of risk created around his account, he may have missed the messaging around Apple pay. We know Mr H was in his app around the time, having declined a payment attempt and was also being told to follow a process to delete his app. His testimony suggests a sense of urgency was created – he had 30 missed calls about the activity on his account, and as he believed he was speaking to his bank, he would've followed the steps advised as quickly as possible to secure his funds. So possibly not necessarily reading all the information and taking the same care you'd expect from someone outside of a pressure situation. But I don't agree this makes him significantly careless. As he was, in his own way, acting with care to protect his funds.*
- *What I bear in mind here is that Mr H received a call from someone claiming to be his bank in which he was told there was attempted fraud on his account, and so he needed to take steps to protect himself. I'm further mindful of the few steps needed and how quickly this would've happened – this wasn't a long-drawn-out process that gave Mr H much pause for thought. In any event, there were no warnings to suggest he was adding Apple Pay to another device; putting his account at risk; and giving full access to an unknown party.*
- *Taking this all into account, I don't think Mr H's actions fell so far below what a reasonable person would've done that he failed with gross negligence. I intend to say that he isn't liable for the transaction and Monzo needs to put things right – by refunding his losses from this unauthorised transaction alongside interest to compensate him for the time he's been out of pocket.*
- *While not impacting my outcome, Mr H has discussed a few other points such as him switching off notifications due to a social media post he saw by Monzo. I don't agree with his stance that this was a direct instruction by his bank to not monitor his banking or that he should have taken this post in such a manner.*

- *Monzo offered £50 compensation given Mr H's frustration with the number of people he spoke to through its in-app chat function. Given the circumstances of the complaint, I intend to say this a fair award to reflect the distress caused to him. And this amount has already been paid.*

Mr H accepted my provisional decision, however Monzo didn't accept. It still considered Mr H's actions grossly negligent, saying he knew he was setting up an Apple Pay token and as he had an Android device, this action was nonsensical. It also said he followed an instruction from a third party that had no business requesting this action in the first place. So the case has been returned to me for a final 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.

Having done so, I see no reason to depart from my provisional findings, so I uphold this complaint.

As I've already set out in my provisional decision, I accept that had Mr H seen and understood the messaging around Apple Pay, he could've questioned this. But I don't think him not doing so meant he was significantly careless here – to say that he failed with gross negligence. I accept in the moment, with the false sense of risk created around his account, he may have missed the messaging around Apple pay. I don't agree this makes him significantly careless as he was, as I have already set out, in his own way acting with care to protect his funds.

Monzo also argues that Mr H followed instructions from a third party that shouldn't have been requesting this action in the first place, but Monzo seems to ignore what unfolded as part of this scam. Mr H said the caller knew his name, address and card details. The fraudster was even able to trick him into thinking a transaction had been attempted from his account, and so told him to decline this if it wasn't him. Which Mr H says he did in his genuine app. It's clear Mr H believed he was speaking to a representative from his bank and followed instructions he believed would protect his account. So to him, this person did have the relevant authority to give banking instructions.

Monzo has also said Mr H should be considered grossly negligent as he hasn't taken responsibility for his actions and/or is lying. But I can't agree. Mr H has said he doesn't recall entering the required information, which considering the stressful situation he was in, isn't that unusual. I don't agree he's lied to our service. And I've already set out why I don't agree his actions amount to gross negligence. So I still uphold this complaint.

Putting things right

I instruct Monzo to:

- Pay Mr H the total of the unauthorised transaction, less any amount recovered or refunded – I understand the loss value remains at £9,496.
- Pay 8% simple interest per year on this amount, from the date of the unauthorised transaction to the date of settlement (less any tax lawfully deductible).

My final decision

For the reasons set out above, I uphold Mr H's complaint against Monzo Bank Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 26 April 2023.

Amy Osborne
Ombudsman