

## **The complaint**

B complains that Monzo Bank Ltd hasn't refunded a disputed transaction on its account.

B is being represented by Mr R who I'll refer to throughout my decision.

## **What happened**

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

On 26 September 2022 Mr R's card was used (via ApplePay) to make a £200 payment which he says he didn't authorise. Mr R received a notification to approve his card being registered to Apple Pay and he received a message to confirm this had been set up at 12:07.

Over an hour later (1:27pm) a payment was attempted at a merchant for the exact remaining balance of Mr R's account. But this was refunded to his account by the merchant. A smaller payment of £7.60 was then attempted twenty minutes later and again refunded. The £200 disputed transaction was then attempted at 1:51pm and was successfully debited from Mr R's account.

Mr R saw the transactions on his account and reported them within an hour to Monzo. Monzo considered the claim but decided it couldn't refund the transactions because it was unable to conclude the payments had been authorised by someone else. Unhappy with this response Mr R made a complaint but Monzo didn't change its original decision. So, Mr R brought the complaint to the Financial Ombudsman.

Our investigator didn't think the complaint should be upheld. He said that to register the debit card with Apple Pay a person would've needed Mr R's card details such as the security number on the back of the card and to approve it on the app. But because Mr R had said he hadn't received any suspicious calls or messages and no one knew his security details (PIN number) he wasn't sure how a third party was able to access this information. The investigator added that a £216.22 transaction was attempted at 1:27pm on the same day as the disputed transaction and that this attempted payment was for the exact balance in the account at the time. The disputed transaction here (£200) was then authorised a few minutes later. So, the investigator felt it was unlikely the payments had been authorised without Mr R's authorisation or him knowing about it. So, he didn't think he could reasonably ask Monzo to refund the £200 to Mr R.

Mr R disagreed and has asked for an Ombudsman's review. He said this service had upheld similar cases to his before and that £200 was taken from his account by persons unknown to him and unauthorised by him and that the victim here has been blamed. He said card skimming is a well-known technique and that the transactions that were attempted and refunded by the merchant before the disputed transaction show that there was a third party trying to access his account.

## **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've read and considered the whole file. But I'll concentrate my comments on what I think is relevant. If I don't mention any specific point, it's not because I've failed to take it on board and think about it, but because I don't think I need to comment on it to reach what I think is a fair and reasonable outcome.

When considering what is fair and reasonable, I'm required to take into account relevant law and regulations; regulator's rules, guidance and standards, codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time.

Where the evidence is incomplete, inconclusive, or contradictory, I have to make my decision on the balance of probabilities – that is, what I consider is more likely than not to have happened in the light of the available evidence and the wider surrounding circumstances.

I would also like to make it clear that each complaint is decided by our service on its own facts and merits, and I'm not bound by what our service might have found in other cases, whether similar to this one or not.

Broadly speaking, Mr R is responsible for any payments that he authorised (either by making them himself or allowing someone else to) and he isn't responsible for unauthorised payments. The relevant regulations to this effect are the Payment Services Regulations ('PSRs'), and I've considered these alongside the terms and conditions of Mr R's account.

The key questions for me to decide are:

1. were the payments authorised by Mr R; and
2. if they weren't, did Mr R fail with intent or gross negligence to comply with his obligations under the PSRs and/or the terms and conditions of his account?

Mr R says that it's very common for cards to be skimmed, a common technique used by scammers, and that the two refunded payments that took place before the £200 payment shows that someone was attempting to use his account.

Monzo has provided technical evidence that shows the £200 payment was authenticated via Apple Pay (which Mr R admits he approved before the transaction was made) on the trusted device linked to Mr R's account. There was no secondary device.

That's important because Mr R says he authorised Apple Pay, with Monzo showing this was done via the app, which also needed Mr R's security details (PIN). Mr R says no one else knows his PIN number. So, I'm unable to explain to Monzo how a third party would've gained access to Mr R's card, his PIN and then authorised the payment on the only trusted device linked to the account at the time of the payment without his knowledge.

I've also considered that it's unlikely a person who had skimmed Mr R's bank card would've known the exact remaining balance in his account to attempt to make the payment of £216.22 (which was refunded by the merchant). So, I'm satisfied that the evidence I've considered here, suggests that Mr R either authorised the payment or allowed another person to make the payment by giving them access to his account.

As a result, I can't fairly ask Monzo to refund the disputed payment here.

### **My final decision**

For the reasons I've explained, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask B to accept or reject my decision before 31 October 2023.

Mark Dobson  
**Ombudsman**