

The complaint

Mr W complains that Metro Bank PLC hasn't refunded just over £3,400's worth of disputed transactions on his account.

What happened

Mr W has a current account with Metro Bank with a debit card.

Mr W called Metro Bank on 30 October 2021 to say that he couldn't find his card and he'd like to cancel it. Having cancelled the card, the member of staff checked to see whether or not there were any transactions he didn't recognise and said that there had been several transactions that morning. Mr W said he didn't recognise any of the transactions – and that the last time he'd used the card was when he'd bought a drink in a bar. Metro Bank agreed to flag the transactions in question as fraudulent and to investigate.

Metro Bank investigated and, having done so, said that it didn't think the transactions were fraudulent. For the reason, it said it wouldn't refund them. Mr W complained saying that the transactions weren't his. Metro Bank didn't uphold his complaint. So he complained to us.

One of our investigators looked into Mr W's complaint and upheld it. They said that Metro Bank hadn't provided evidence to show whether or not there were any balance enquiries before, during or after the disputed transactions. Nor had Metro Bank been able to show that there were attempts to use the card after it had been blocked. In the circumstances, given that Mr W's evidence showed that his PIN could have been compromised, Metro Bank shouldn't have held him liable for the disputed transactions as it had not shown they'd been authorised by him. Metro Bank was unhappy with our investigator's conclusions saying that there was no likely explanation as to how someone else had obtained Mr W's card and PIN and that what had happened in this case wasn't what's typically seen when someone is shoulder surfed. So, I've looked into this complaint.

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.

Mr W called Metro Bank on 30 October 2021 to say that he couldn't find his card and that he'd like to cancel it. The member of staff he spoke to asked him when he'd lost the card, and he said he didn't know. He said he'd to use the card that morning and couldn't find it.

The member of staff cancelled the card and said they'd check to see whether or not there were any transactions he didn't recognise. The member of staff said there'd been a few transactions done "today". Mr W sounded surprised when he was told that there had been transactions done "today". He wanted to know if Metro Bank could stop the payments going out of his account and was told that this wasn't possible. In total there were four transactions for £3,441. He was, however, told that they could be reported as fraudulent. Metro Bank organised that and started to investigate.

In the course of its investigation, Metro Bank spoke to Mr W about what had happened that night and what he'd told the police. He said he'd used his card in a well-known supermarket, had a drink in a bar and had then gone home. He said that no-one was with him in the bar and that his card was in his pocket. He said he couldn't find his card the following morning when he wanted to buy something and that nothing else of his was missing. He still, for example, had his wallet, his mobile phone and his driving licence.

The following morning – around ten hours after Mr W had used his card in the bar – Mr W's genuine card and PIN was used to carry out four chip and PIN transactions, including a cash withdrawal from an ATM and a high-value transaction in a well-known store. Metro Bank says that there were no balance enquiries before those transactions took place and no declined transactions but it hasn't been able to supply evidence to corroborate this. Nor has Metro Bank been able to supply evidence to show that attempts were made to use the card after Mr W called and it was blocked. In the circumstances, I agree with our investigator that although you'd normally expect someone who had stolen a card having successfully shouldered surfed its owner to spend as much on the card as possible in a short space of time that Metro Bank hasn't done enough to evidence the fact that Mr W authorised these transactions. Metro Bank has to do that in order to hold him liable.

Given what I've said above, I agree with our investigator that Mr W's complaint should be upheld. Had Metro Bank been able to supply the evidence I've mentioned above, then it would have stronger grounds for saying that it's entitled to hold Mr W liable for the transactions. It hasn't – and I have to go on the evidence sent.

Putting things right

Metro Bank should refund the disputed transactions to Mr W together with 8% interest from the date of the payment to the date of settlement in full and final settlement of this complaint.

My final decision

My final decision is that I require Metro Bank PLC to refund the four transactions that Mr W disputed – totalling £3,441 – together with 8% simple interest from the date of the payment to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 19 July 2023.

Nicolas Atkinson
Ombudsman