

## **The complaint**

Mr L complains that Revolut Ltd will not refund Apple Pay transactions that he says he didn't make or otherwise agree to.

## **What happened**

Mr L explains he received a phone call from someone claiming to be from Revolut to discuss transactions on his account. Mr L didn't recognise them. He says the caller told him they would be blocked, and a new card would be sent out to his address. Mr L recalls receiving another phone call around an hour later. He recalls the caller told him to open his Revolut app. Mr L says that when he did, he noticed £800 had gone. He says the caller told him to close the app and open it again. Mr L says he followed the caller's instructions and more money started leaving his account. A total of seven payments totalling just under £5,000 were made in store at a high street retailer that I'll call A. The transactions were authorised using Apple Pay.

Mr L reported the matter to Revolut within an hour of the transactions happening. He said it was obvious he'd been the victim of a phishing attack. He said he'd been called by someone claiming to be from Revolut but he didn't give the caller any information. He told Revolut about his learning difficulties and how he finds it easier to talk on the phone than write in the chat function. Revolut took five days to call him back, resulting in a delay logging the claim.

When Revolut had the details, it looked into the matter but declined Mr L's claim for a refund. It said the device involved in setting up Apple Pay for Mr L's card was the same device that was being used on the in-app chat. It pointed out that Mr L hadn't provided any screenshots of his phone to show the suspicious calls he'd received. Revolut concluded if Mr L didn't make the transactions himself, he must have agreed that someone else could. It said it had found no trace of fraudulent activity and the transactions could have only been made by Apple Pay if Mr L had failed to keep his account details safe.

Mr L complained. Revolut didn't change its position on the refund, but it paid Mr L £100 to recognise it gave poor service by not calling him sooner. As Mr L remained unhappy with how things stood, he referred the complaint to this service. He explained he'd been at home when the disputed transactions happened and his housekeeper could confirm this. He said that no-one else had access to his phone.

Our Investigator considered the matter but did not recommend it should be upheld. He concluded there was no explanation for how the disputed payments could have been made without at least some involvement from Mr L and he wasn't persuaded things happened in the way Mr L had described.

He pointed out Mr L signing in and out of his app had no connection to money leaving his account as making an Apple Pay payment did not require any steps to be taken from within Mr L's mobile banking app.

Our Investigator also asked Mr L about the phone calls in case there was more going on than Mr L had initially reported. He was mindful it was possible Mr L could have unwittingly shared information.

Mr L replied to say the findings were wrong and that around five payments had already been taken out of his account before he may have given the caller a passcode. He said the outcome wasn't logical and he wouldn't have spent all of his money in 50 minutes and then said it was fraudulent.

As Mr L and our Investigator couldn't reach an agreement, the complaint has been passed to me to make 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 don't think Revolut treated Mr L unfairly by declining his claim. I know this is not the news Mr L is hoping for, so I will explain why. As our Investigator set out the position extensively in his view to both parties, I've focussed on what I think are the key outstanding issues here.

In cases where payments are in dispute, there are some general principles that apply. The Payment Services Regulations primarily require firms to refund customers if they didn't make or authorise payments themselves. Certain other circumstances do apply – specifically in this type of case whether the customer was grossly negligent or what the customer may have consented to. So, when I look at whether a firm has acted fairly in rejecting someone's fraud complaint, one of the things I consider is whether the customer made the transactions themselves or allowed them to be made. If they did, then it generally wouldn't be fair to ask the firm to refund them.

One of the difficulties in this case is it's not very clear exactly what's happened. Mr L says he received two phone calls that he thought were from Revolut, but he's not been able to show any specific details about those calls from his phone records and he's not given much information about what was said, particularly during the second call. Mr L explains he couldn't remember if he was speaking to the same person both times due to the stress of the situation. I've thought about whether Mr L was tricked by a caller into taking steps resulting in payments being made from his account. But one thing Mr L has been very clear on is that payments had already been made from his account before he'd potentially given the caller a passcode and before the second phone call took place, so by Mr L's own recollections this cannot be what happened.

I've looked carefully at Revolut's technical evidence. It shows that the payments were authenticated by Apple Pay involving personalised payment details linked to Mr L such as his virtual card number and its security code. So I've thought about whether it's more likely than not that Mr L consented to the payments being made.

Revolut's records show that an Apple Pay token was set up shortly before the disputed transactions happened. A passcode was sent by text to Mr L's phone number as part of the process to set up Apple Pay. This is the same phone number that Mr L has used when contacting this service and the same number that Revolut has held for Mr L since 2021.

Mr L told both this service and Revolut that he'd never shared his card details and that no-one else had access to his phone. But this means I can't see how anyone else could have had the opportunity to add Mr L's virtual card details or to find out the passcode that was required to verify Apple Pay when it was only sent to Mr L's phone.

In addition, at the time the disputed Apple Pay transactions were taking place, further unique passcodes were required. There is no question that Mr L received these text messages because he's provided this service with a screenshot of them. It is unclear how an unconnected third party would have been able to obtain these codes which were required in real time to complete the transactions at A's retail premises unless Mr L disclosed them. Although I've thought carefully about everything Mr L said to Revolut and to us, there remains no clear opportunity for someone else to have obtained this information or for Mr L to have unwittingly disclosed it.

Whilst I recognise Mr L's strength of feeling, from what I have to consider, I can't see how the transactions in dispute could have been made without Mr L's involvement. Revolut's technical evidence shows that things could not have happened the way that Mr L has described. Having looked carefully at the payments and the surrounding circumstances, on balance, I think the transactions were authenticated using Mr L's payment tools and that Mr L consented to them being made. This means I consider the payments to be authorised and that Revolut did not treat Mr L unfairly by holding him liable for the loss.

Given that I consider the payments to be authorised because, on balance, Mr L was involved in their execution, I don't think he would be in a different position now if Revolut had tried to block his account to find out more about the transactions at the time they were being made. In addition, there is no way for Revolut to stop a card payment once it has been made. Finally, I'm not persuaded that Mr L has lost out specifically as a result of Revolut's delay in investigating the claim, although I am pleased to see Revolut has already recognised that it should have phoned Mr L when he told it about his personal circumstances.

I am sorry to have to disappoint Mr L. I have not reached this position lightly and I am especially mindful that the loss of this money at a time when he's struggling to make ends meet will not be easy to accept. But for the reasons I have explained above, I am unable to fairly conclude that Revolut should take responsibility for the loss.

### **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 13 July 2023.

Claire Marsh  
**Ombudsman**