

The complaint

Miss Z complains that Starling Bank Limited won't refund the money she lost after she fell victim to an Authorised Push Payment (APP) scam.

What happened

The background to this complaint is well-known to both parties, so I won't repeat it in detail here. But in summary, I understand it to be as follows.

In April 2023, Miss Z was looking to book some accommodation abroad for an upcoming trip. She saw somewhere that was suitable on a well-known travel marketplace. Miss Z responded to the advertisement, which advised that contact should be made through a common social media platform. She was sent an email request, which appeared to come from the travel marketplace, indicating that payment should be made to them. But unknown to her at the time, she was dealing with fraudsters.

The fraudster told Miss Z they were a real estate agency and provided details of a registration number and a link to a website. Miss Z has said she saw they had some positive reviews and believing everything to be genuine, Miss Z followed the fraudsters instructions and, on 4 April 2023, went ahead and made a payment, from her Starling account, for £1,614 to the account details she was given.

Before doing so, Miss Z did question whether she could make the payment directly to the travel marketplace's account, as she felt it was guaranteed. But she was told that everybody needed to follow the same procedure. Miss Z initially questioned the payment with the fraudsters as she received a Confirmation of Payee (COP) 'no match' warning – but the fraudsters confirmed with Miss Z that the account number and sort code were correct, but the name should be that of their accountant, which they gave to Miss Z, which then matched.

Miss Z became suspicious when she was then unable to locate her order on the genuine travel marketplaces' website. She also noticed at this point that the email address, on the reservation confirmation she'd received, didn't match that of the travel marketplace.

Miss Z raised the matter with Starling, but it declined her claim. Starling is a signatory of the Lending Standards Board Contingent Reimbursement Model (CRM) Code, which requires firms to reimburse customers who have been the victims of APP scams like this in all but a limited number of circumstances. Starling says one or more of those exceptions applies in this case. In summary it said at the time the payment was made it had made Miss Z aware of the potential for this to be a scam. It added that Miss Z had failed to provide it with the evidence it had requested to enable it to review the purchase she was making.

Unhappy with Starling's response, Miss Z then referred the matter to this service. One of our Investigator's looked into things and thought the complaint should be upheld. In summary, under the CRM Code, he didn't think Miss Z lacked a 'reasonable basis for believing' that she was making a legitimate payment towards a holiday rental. So he thought Starling should refund the money she'd lost along with interest.

Starling didn't agree with our Investigator's view. In summary it thought there were enough red flags that Miss Z ought to have been alarmed at what she was being asked to do. It added that when Miss Z was making the payment it had asked her if she had visited the property and she'd answered 'yes' (although she hadn't visited the property). It says this eliminated any concerns it had with this being a scam and also prevented it from providing further enhanced warnings and likely a manual review where a call to the customer could have been made. Starling did not consider it should be held fully liable, however it offered to refund Miss Z 50% of her loss, along with 8% interest.

Miss Z didn't accept Starling's offer. As agreement hasn't been reached the complaint has now been passed 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.

The starting point in law is that Miss Z is responsible for any payments she's authorised herself. But, as set out, the CRM Code requires a firm to reimburse victims of APP scams that fall under its provisions, unless a firm can demonstrate that one of the exceptions to reimbursement apply. In this case, Starling says Miss Z lacked a reasonable basis for believing the person they were transacting with were legitimate. It added that Miss Z had been provided with a warning, but in not answering one of the questions it had asked her accurately, it was prevented from providing enhanced warnings.

I've thought about these points carefully and I am satisfied that:

- Under the terms of the CRM Code, Starling should have refunded Miss Z the money she lost. I am not persuaded any of the permitted exceptions to reimbursement apply in the circumstances of this case.
- In the circumstances Starling should fairly and reasonably refund the money Miss Z lost.
- The money was taken from Miss Z's current account. It is not clear how Miss Z would have used the money if Starling had refunded it when it should have done, so Starling should also pay interest on the money it should have refunded at 8% simple per year, from the date Starling decided not to refund Miss Z under the CRM Code to the date of payment.

Did Miss Z have a reasonable basis for belief when making the payment?

I've carefully considered Starling's representations about whether Miss Z had a reasonable basis for believing the purchase was genuine. Weighing everything up, while I think that the matter is relatively finely balanced, I don't think Miss Z proceeded to make the payment without having a reasonable basis for belief. I say that because;

- I don't think the price was so low that Miss Z ought to have thought it was too good to be true.
- Starling has raised that Miss Z was looking for holiday accommodation via an official booking website, so there was no need for her to communicate with anybody else if she was completing the transaction via an official booking website. But I don't think this in and of itself would have made it apparent to Miss Z that this was a scam. The

advert had first appeared on a legitimate travel marketplaces website and Miss Z has said she'd seen positive reviews. I don't consider it unreasonable that Miss Z would have thought that there was some kind of vetting of these adverts. It follows I don't think it was unreasonable for her to follow the instructions, with regards to how contact should be made regarding enquiries, that were provided within the advertisement.

- I've considered that Miss Z was asked to make a payment to what she was told was an accountant. Starling do not consider this was believable and that Miss Z ought to have challenged this and asked further questions. I concur with our Investigator, that I don't agree that an accountant being involved is unbelievable and there is the potential for a number of different parties to be involved when renting out a property. I'm also minded that the fraudsters provided Miss Z with details for what appears to be a legitimate real estate agency, which I think would have added plausibility.
- Miss Z did question whether she could pay directly through the travel marketplace, as she thought that meant things were guaranteed – and she also raised that there had been a COP 'no match' and she sought clarification on this. In the circumstances of this case, I'm not persuaded by Starling's assertions here that this is a sign that Miss Z was uncomfortable with what she was being asked to do, rather I think this suggests that she wasn't generally acting carelessly. And I don't think it was unreasonable for her to move passed this when given assurances by the fraudsters.
- Miss Z had received an email which I think reasonably at first would have appeared legitimate to her, only later did she realise the domain was different. Alongside this, she was also under the impression that, while she wasn't paying them directly, she believed the funds would be held by the travel marketplace until the end of her trip.

Miss Z had not been scammed before. She is not an expert in all matters relating to frauds and scams, nor about how they work or can play out. The fact that the bank, as a professional in these matters, can think of additional things Miss Z could have done, with the benefit of hindsight, does not mean that she did not do enough. People don't want or expect to be scammed and I think overall Miss Z took reasonable, appropriate, and proportionate steps to try and protect herself. I don't consider she had any reason to think the seller would not keep to their side of that bargain.

Starling has argued that Miss Z answering 'yes' to whether she'd seen the property prevented it from showing an enhanced warning. But the test under this part of the CRM code is just whether Miss Z ignored an effective warning. And, regardless of her answering in the way she did, which it should be noted is accepted she did without any intent to deceive, I don't think the warning she was shown was effective in her circumstances.

I say that because Starling has provided evidence of the warning it did provide to Miss Z, based on the answers she gave. Having looked at this I don't think it could be considered as effective. Starling *had* been told by Miss Z that the purpose of the payment was 'renting a property or room, to live in' – yet Starling went on to provide a warning that is more relevant to a 'safe account' scam and wasn't specific to the type of scam Miss Z was falling victim to.

Notwithstanding that, our Investigator asked Starling to share what Miss Z would have seen, had she not indicated that she'd seen the property. But again, having looked at what Starling has shared with us, I don't consider that could be considered as an effective warning either. It doesn't talk about how typical rental scams look, feel or play out. And again, it isn't specific

to one type of scam, as it goes on to focus on hallmarks which are more typical to safe account scams.

Overall, I'm not persuaded Starling has established that Miss Z ignored an effective warning.

All things considered and on balance, while I accept this is a finely balanced point, the evidence persuades me that Miss Z did not lack a reasonable basis for believing that she was dealing with a legitimate agency and paying for genuine services. And I don't think Starling has demonstrated that Miss Z ignored an effective warning. Therefore Starling should refund her in full under the provisions of the CRM Code.

Putting things right

For the reasons outlined above, Starling Bank Limited should now;

- Refund Miss Z the £1,614 she lost as a result of this scam.
- Pay 8% simple interest per year on that amount calculated from the date Starling Bank Limited originally declined Miss Z's claim until the date of settlement.

My final decision

My final decision is that I uphold this complaint against Starling Bank Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss Z to accept or reject my decision before 27 December 2023.

Stephen Wise
Ombudsman