

The complaint

Mr G complains that Monzo Bank Ltd ("Monzo") failed to refund transactions he didn't recognise.

What happened

Mr G noticed two unusual transactions on his Monzo account and notified Monzo about them. The two payments were identical and were made via Apple Pay (AP) to a merchant in South America. At the time of the transactions, Mr G was in the UK and has established this with evidence of the use of his Monzo account (using AP) to make a transaction about one minute before the disputed transactions were carried out.

The two payments totalled about £150 and were to a merchant whose trading class included legal services (according to Monzo data). Monzo looked into the payments, but as they were authorised via AP and Mr G only had his own device activated to use this service with his Monzo card, they didn't think anyone else was responsible.

Mr G confirmed he hadn't provided his card details to anyone else or allowed anyone to use his phone/AP.

Mr G complained to Monzo and told them he was in the UK at the time, so couldn't possibly have been in South America to make the payment. Monzo continued to decline his request for a refund and Mr G then brought his complaint to the Financial Ombudsman Service for an independent review.

Both parties were asked for information about the complaint, but Monzo didn't supply anything for some time, despite being reminded. Eventually, the investigator assigned to the complaint issued their recommendations based on the evidence held at the time, which was Mr G's version of events without Monzo's file.

Several weeks after the recommendations were issued, Monzo provided their business file containing audit data and copies of the support chats held with Mr G. Monzo maintained that the audit data showed it could only have been Mr G who made these payments because of the AP information and the card details that were used issued to Mr G. Monzo wished a further investigation into the matter.

As no agreement could be reached, the complaint has now been passed to me for a decision.

It's unfortunate that Monzo didn't respond earlier to the investigator's requests for evidence. I appreciate they were very busy at the time, but Mr G's complaint shouldn't be unnecessarily delayed because Monzo can't respond in time. The delay caused the investigator to issue their recommendations without Monzo's data. Now it's been provided, I've examined all the available evidence.

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 relevant law surrounding authorisations are the Payment Service Regulations 2017 and the Consumer Credit Act 1974. The basic position is that Monzo can hold Mr G liable for the disputed payments if the evidence suggests that it's more likely than not that he made them or authorised them.

Monzo can only refuse to refund unauthorised payments if it can prove Mr G authorised the transaction(s), but Monzo cannot say that the use of Apple Pay conclusively proves that the payments were authorised.

Unless Monzo can show that consent has been given, it has no authority to make the payment or to debit Mr G's account and any such transaction must be regarded as unauthorised. To start with, I've seen the bank's technical evidence for the disputed transactions. It shows that the transactions were authenticated using the payment tools issued to Mr G. I'll now need to consider the information provided by both parties to determine whether there's sufficient evidence to hold Mr G responsible for the disputed transaction(s) or not.

It's apparent to me that Mr G was in the UK at the time, he's provided details of a payment he made (using his Monzo account) and Monzo's own IP address data shows he was in the UK both before and after the disputed transactions. So, I'm satisfied that Mr G wasn't in South America at the time of the disputed transactions.

Note: IP addresses are a means to identify physical locations that online transactions are connected to and can be the actual physical location or other locations connected to the provider of the data services.

But, Mr G doesn't need to be present or the actual one to carry out the payment to still be held responsible for it. If, for example, he allowed others to use his card and AP service, he would still be liable for the payments. Mr G has said that he hadn't allowed anyone else to use his account or passed his card details to anyone else and he's been consistent about this throughout his complaint.

Monzo provided audit data linking Mr G's account, Apple Pay and his card with the payment in South America. But, that isn't enough to hold Mr G responsible for these payments. I'm not satisfied that the audit data alone is persuasive enough here to hold him liable. It seems entirely unlikely that Mr G would be arranging such a transaction in a part of the world he has no obvious connection with.

Monzo said his card wasn't linked to any other device (to use AP), so it seems unlikely that it was Mr G himself who made the payments using his own phone in the UK. I just can't see a realistic or plausible scenario where Mr G legitimately made these payments.

It's for Monzo to make the case to hold him liable and I'm afraid that I'm not persuaded Mr G authorised those payments. There's sufficient doubt raised here that I'm upholding Mr G's complaint. I think it unlikely he was responsible for those payments, and it was unreasonable for Monzo to hold him liable.

Putting things right

In order to finalise this complaint, Monzo should now refund Mr G the two disputed

transactions which total £156.02, to include simple interest at 8% (annual) from the date of the payment to date of settlement.

My final decision

My final decision is that I uphold this complaint and Monzo Bank Ltd are instructed to settle the complaint as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 1 March 2024.

David Perry
Ombudsman