

The complaint

Mr B complained because TSB Bank plc refused to refund him for a £500 cash withdrawal which he said he didn't make.

What happened

On 26 October 2023, Mr B went to a cash machine to withdraw money. He said he planned to withdraw £10 or £20, so he put in his card and requested a withdrawal without a receipt. He said he hadn't yet put in how much he wanted to withdraw, when suddenly someone appeared next to him and started to press buttons on the cash machine he was using. He said that the machine screen went black, and the person who'd appeared told Mr B to cancel, and not use the machine because it was broken. Mr B said he told the person to go away. Then his card was returned from the cash machine. Mr B waited to see if any money came out of the machine, and when it didn't, he went inside the bank branch to check his account. He saw that £500 had been debited.

The next day, Mr B rang TSB. He told them what had happened. TSB's advisor told Mr B he could report this to telephone banking as a cash machine dispute, or contact the police to ask them for any CCTV. Mr B contacted the police and reported it to Action Fraud. But TSB didn't agree to refund him.

Mr B complained. In TSB's final response to Mr B's complaint, it said its cash machine dispute team had said that the machine owner had provided enough information under the LINK (the UK's cash machine network organisation) regulations to decline the claim. TSB said this decision was final with no option to appeal, and pointed out that it had taken this decision based on the information provided by the machine owner.

Mr B wasn't satisfied, and contacted this service.

Our investigator didn't uphold Mr B's complaint. He explained that TSB hadn't provided any CCTV evidence, so he'd looked at the other evidence from Mr B and TSB. This included the machine records, which showed that the withdrawal was successful and the money had been successfully dispensed. Also, the company that operates the machine had confirmed to TSB that the machine had been checked, and it had balanced. This wouldn't have been the case if there was a cash surplus in the machine. And the withdrawals before and after Mr B's had also been successful with no machine errors. So the investigator said that everything showed the machine was in good working order.

Mr B didn't agree. He said he hadn't received any money from the machine, and he wanted CCTV evidence from TSB. He said that he believed that the person who appeared next to him while he was using the machine was involved in fraudulent activity. He believed he was the victim of fraud, and said that TSB had to refund his money, as it was a scam. Mr B asked for an ombudsman's 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.

First, Mr B has asked for CCTV. TSB didn't provide us with this, and it wasn't one of its machines. CCTV is normally over-written after a short period, normally a month, so it wouldn't be available to me now. But in any case, CCTV rarely shows what a customer might hope. For example, it would have to show simultaneously whatever money was coming out of the slot, and at the same time a clear image of the person withdrawing it – and in the case of Mr B's complaint, also the unknown third party whom he said used the machine while Mr B was standing there. It's very unlikely that CCTV would show all of those simultaneous images, even if it were available. But it often happens that this service doesn't have all the evidence we'd like, and when this happens I take my decision on the evidence I do have, in order to decide what's more likely than not to have happened.

The computer evidence

Here, we have clear computer evidence about the machine. I've looked closely at that, to see what it shows. The main technical evidence produced by cash machines is called a "journal roll." This shows a detailed breakdown of each step-by-step process the machine has carried out.

The journal roll for Mr B's transaction shows the start of the session at 15:42:14 pm on 26 October. It shows Mr B's card was entered, and that £500 was requested eight seconds later at 15:42:22 pm. After another 15 seconds, 4 x £10 notes and 23 x £20 notes were dispensed. The session ended when Mr B's card was withdrawn at 15:42:53 pm.

I also looked at the transactions carried out by other people immediately before and after Mr B's. These went through correctly too. So it's not likely that there was a machine fault.

The technical evidence also shows that when the cash machine was next checked, it balanced – in other words, the amount of cash in the machine tallied correctly with the credits into and debits out of the machine. The certification slip, provided by the Disputes Analyst who checked the machine records, says that "*I [name] Disputes Analyst certify that ATM was reconciled on 06/11/2023 with no surplus or deficit – Transaction shows as successful on journal roll. Decline.*"

What the evidence means for Mr B's complaint

Mr B's evidence is that the machine didn't dispense any money. But that isn't what the technical evidence shows. This demonstrates that 4 x £10 notes and 23 x £20 notes were dispensed, using Mr B's credentials.

The role of the stranger in Mr B's complaint isn't clear. Mr B said he believes that that person was involved in fraudulent activity. Certainly being approached by a stranger when using a cash machine, especially in a busy city centre like the location where this incident happened, is something to beware. But Mr B hasn't said, for example, that the stranger grabbed and stole the £500 as it came out of the machine. Nor has Mr B said he was attacked, or pushed out of the way, or forced to hand over the money which had come out of the machine. Nor has Mr B said that the person threatened him in some way, forcing him to withdraw the money and hand it to the criminal.

Mr B also said that he believed there was a scam. A scam is a dishonest plan for gaining money, which involves tricking someone. But I can't see how the stranger who came up to the machine could have obtained money by tricking Mr B. The key point here is that Mr B's evidence is that no money was dispensed. So I can't see how the stranger could have obtained the £500 cash.

The machine timings also conflict with the account of the stranger. Mr B's card was put in the machine at 15:42:14 pm. He said he hadn't entered the £10 or £20 he wanted, by the time the stranger appeared. But the withdrawal request for £500 was made only eight seconds later. This is a very short space of time, and it appears to conflict with Mr B's evidence about the stranger arriving, pushing buttons on the machine, and the machine going black, telling Mr B not to use the machine, Mr B telling the person to go away, etc. All the activities described by Mr B would have taken longer than eight seconds.

Also, if any scuffle or dispute had happened at the machine, I wouldn't have expected other people waiting in the queue to have calmly continued with the machine. But the next person's card was put into the machine less than three minutes after Mr B's card was withdrawn, and there were multiple further successive successful transactions in this busy location with very short intervals between them.

Taking all these factors into account, I find that it's more likely than not that the cash machine was working correctly and that Mr B's £500 withdrawal was correctly dispensed. This means that TSB doesn't have to refund him.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 7 May 2024.

Belinda Knight
Ombudsman