

The complaint

Mr B complains PrePay Technologies Limited ("PrePay") refuses to refund him for transactions on his account he says he didn't make.

What happened

Mr B says his card was stolen when he was in Germany on 7 July 2023 - and unauthorised transactions were carried out on his account. He says he checked his account balance at an ATM prior to the disputed transactions and he thinks someone may have seen his PIN at this time.

PrePay says the transactions were all carried out using Mr B's actual card and PIN. And it thinks Mr B had his PIN written down with his card, so it says Mr B breached his terms and conditions and was grossly negligent. On this basis PrePay says Mr B is liable for the transactions.

Our investigator considered this complaint and decided to uphold it in Mr B's favour. PrePay haven't disputed this or provided any further evidence for me to consider. So, I've looked at all the evidence and information that has been provided on this complain to reach a 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.

Generally speaking, PrePay is required to refund any unauthorised payments made from Mr B's account. Those rules are set out in the Payment Service Regulations 2017. Mr B has said he didn't carry out the transactions in dispute but PrePay says it thinks he did. So, I have to give my view on whether I think Mr B did authorise the transactions or not.

PrePay have provided the transaction history of Mr B's account. This shows that the transactions were carried out using Mr B's actual card and PIN. But this doesn't mean Mr B authorised these transactions. Mr B's evidence is that his card was stolen, and he has provided a Police Report to show that the theft was reported as soon as possible. PrePay has not provided any evidence to dispute what Mr B has said about his card being stolen, and from what I've seen I have no reason to dispute this either.

Mr B says he thinks his PIN was compromised when he checked his account balance at a busy ATM. He says there were two ATMs side-by-side and it's possible the person on the next ATM saw his PIN and then stole his card. Mr B says the Police have CCTV evidence showing him at the ATM and based on this footage, it's possible the person next to him also took his card. But I've not been provided this CCTV evidence so I cannot rely on this as Mr B would've liked me to have. But I do think it's possible that Mr B's PIN was compromised in this way.

I have also looked carefully at the transactions in dispute. These were carried out in short succession and for large cash amounts. There is evidence which suggests declined

transactions and then smaller cash withdrawals straight after. This is the type of transactions we usually see in cases of fraud where the fraudster tries to take out as much money as possible and continues to try different amounts following a declined transaction. I've also seen that Mr B logged a police report on 7 July 2023 at around 2pm (as soon as he realised his card was missing) and at the same time cash withdrawals were being made from Mr B's account from another location. So, it seems unlikely that Mr B made these disputed transactions himself.

A customer has a responsibility to protect their account. That includes keeping cards safe and things like PINs and online banking details secret. If they don't, they might be responsible for any spending on their account. So, I need to consider whether Mr B has been 'grossly negligent' and failed to keep his account safe. There isn't an exact definition for 'gross negligence'. But we believe it to be beyond ordinary carelessness. There needs to be a serious disregard or indifference to an obvious risk and the bar is a high one.

Prepay says that it thinks it's likely that Mr B had written down his PIN somewhere with his card, and that's how the fraudsters were able to use his card to make the unauthorised transactions. But PrePay hasn't provided any evidence to support what it has said, and I it hasn't explained how it came to this conclusion. So, I'm not persuaded but what PrePay has said alone to conclude Mr B was grossly negligent.

On balance, I think it is more likely that Mr B did not authorise these transactions, so I am upholding the complaint.

Putting things right

To put things right PrePay Technologies Limited should refund Mr B all the transactions in dispute and associated fees. PrePay Technologies Limited should also pay Mr B 8% simple interest from the date the transactions were made until the date they are paid.

My final decision

For the reasons outlined above I am upholding this complaint and PrePay Technologies Limited should put things right as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 14 March 2024.

Sienna Mahboobani
Ombudsman