

The complaint

Mr J complains Revolut Ltd (“Revolut”) failed to refund him for transactions on his account he says he didn’t make. He also wants Revolut to pay him compensation for the distress and inconvenience caused in bringing this complaint.

What happened

The background of this complaint is well known to all parties, so I won’t repeat it in detail.

In summary, Mr J says he is not responsible for transactions on his account from the time his phone and cards were stolen on 10 February 2023. Mr J says he was in New Orleans at the time, and he thinks he was shoulder surfed at an ATM where a third party may have seen his PIN and phone passcode. He also says he was on a plane when most of these transactions took place, so he couldn’t possibly have made them.

Mr J says he called Revolut via a telecommunications app on his laptop to block his card, as he no longer had access to his Revolut app. Mr J says he did this at 3.41pm on 10 February 2023 - and this was as soon as he possibly could after realising his phone and cards had been stolen. Mr J says that he believed his card would be blocked from this point before taking his flight back home, safe in the knowledge that the fraudsters would not be able to make any further card payments.

Revolut say they have not found any evidence of fraudulent transactions on his account. They’ve provided evidence to show that all the payments were made using the actual card and PIN, and the Revolut app was accessed from Mr J’s regular device using biometrics before, during and after the transactions in dispute. So, they concluded Mr J must have authorised all the transactions.

Our investigator considered all the evidence in this case. As she said in her outcome, this is a finely balanced case, and a lot of evidence has been supplied by both parties. The investigator ultimately decided not to uphold the complaint.

I completed my provisional decision on this case on 6 February 2024, in which my findings were as follows:

“Regulation 72 of the Payment Service Regulations 2017 state that Mr J should inform Revolut if his card or device are stolen as soon as possible. Mr J has provided evidence that he had to catch a flight shortly after realising his belongings were stolen. However, he says as soon as he landed and reached his hotel, he contacted Revolut via the only option available to him without access to his Revolut app, which was an automated phoneline.

Revolut’s terms and conditions, under the heading “Keeping your Revolut account safe”, states “you should also freeze your Revolut Card using the Revolut app or by calling the automated number below.” Mr J has provided a screen shot of the call log from his telecommunications app as evidence that he called this number on 10 February 2023 and blocked his card. Revolut have not disputed what Mr J has said, they say they don’t have records or call recordings of the calls received via the automated service. But based on what

I've seen I think it's likely Mr J did call Revolut to block his card on 10 February 2023 at 3.41pm. So, I am satisfied Mr J did fulfil his obligations by notifying Revolut that he needed to put a block on his card without undue delay. Therefore, I think Revolut are liable to refund Mr J for all the transactions made after 3.41pm on 10 February 2023 when he blocked his card.

The Payment Service Regulations sets the rules for these types of complaints. Generally speaking, Revolut are required to refund any unauthorised payments made from Mr J's account. Mr J says he didn't carry out the transactions in dispute, but Revolut thinks he did. So, it's for me to decide, based on all the evidence supplied, whether I think Mr J authorised the transactions or not. Where the evidence is incomplete or contradictory, I must make my decision on the balance of probabilities – in other words, what I consider most likely to have happened in light of the available evidence available.

The transactions in dispute were a combination of ATM withdrawals and chip and PIN payments. This means that the actual card and PIN had to be present at the time. Mr J has explained that his phone and cards were stolen from his pocket during the morning of 10 February 2023. Mr J has provided evidence to show that he filed a police report in relation to the theft and ordered a new phone and SIM card as soon as possible. Mr J has registered a new device on his Revolut app and blocked his old device. Mr J also provided a screen shot showing he tried to trace his phone, but the Find My Phone feature had been turned off. Considering all evidence, I am persuaded that Mr J's card and phone were stolen.

Mr J also thinks it's possible that someone may have seen his card PIN and phone passcode when he was at an ATM before the disputed transactions took place. Mr J says when he visited the ATM to withdraw cash, he was prompted to authorise it in his Revolut app. So had someone been looking over his shoulder at this time they would've seen the four-digit PIN for his card, his phone passcode and his Revolut app passcode. Specially as Mr J has told us that these all included the same four digits. Based on everything I've seen; I think it's likely that Mr J's PIN and phone passcode were compromised at this point.

And Mr J has also provided evidence to support his testimony that he was on a flight or in transit when several of these transactions took place at ATMs and in retail outlets in New Orleans. Mr J has been consistent in his testimony about what happened, and I've not been convinced by any of the opposing evidence that these transactions were carried out by Mr J. So, I am persuaded by what Mr J has said and I don't think he authorised these transactions.

However, I have also considered the evidence supplied by Revolut. Revolut have supplied evidence to show the Revolut app was accessed via biometrics before, during and after the transactions in dispute on Mr J's regular device. So, they've concluded that Mr J must have had his device at the time and authorised the transactions himself. Biometrics are set up on the user's device, and not on the Revolut app itself. It's possible to change the fingerprint or face ID using the device's passcode. As I've said above, I think it's likely Mr J's phone passcode was compromised, so I think the biometrics could've been changed on the device by a fraudster. We asked Revolut to provide us evidence to show that the same biometrics were used before the phone was stolen and after the phone was stolen. But Revolut says they don't have such evidence.

Revolut have provided evidence that Mr J's app was accessed during the times of the disputed transactions via his regular device – so they say this is evidence that Mr J was responsible for these transactions. But as I've said above, I think it's likely the fraudsters who stole his phone were able to access his app using a changed set of biometrics that they created on his phone. The evidence supplied by Revolut also shows that he accessed his account via a laptop around the same time his regular device was accessing the app from different IP addresses. And this is consistent with Mr J's version of events that he had to use

his laptop as he no longer had his phone.

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've also considered whether Mr J had 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. Mr J says had he realised someone had looked over his shoulder while at the ATM, he would've blocked his card immediately. And considering his actions following his phone and cards being stolen, I think that's true. As he was unaware at the time, I can't say he should've reported this sooner or done anything more to protect this information. And I've not been provided any evidence to suggest he was being careless when entering his details at the ATM.

While it would have been safer not to use the same or similar passcode for his phone, card and Revolut app, it is reasonable to use a code that is memorable to you. And it is often the case that this also means the same code or PIN is used for more than one security access - so, I don't think this was grossly negligent. I've not seen any evidence that Mr J had given his PIN to anyone or written it down somewhere unsafe. So overall, I don't think he was grossly negligent in his actions.

Mr J has asked for compensation for the inconvenience caused in bringing his complaint. However, sometimes there are disputes and a need to complain. I understand that Mr J is not happy with how Revolut handled his complaint, and he has enlisted the help of a third party to bring his complaint to us. But I don't think that Mr J had to go through an unreasonable amount of effort in doing so. Collecting evidence and waiting for an outcome is reasonable in the process of bringing a complaint. So, I have not awarded any additional compensation for this.

Having considered all the evidence available, I think Mr J informed instructed Revolut to block his card as soon as he reasonably could and via the only option available to him. Furthermore, I don't think Mr J authorised any of the disputed transactions, so I don't think he is responsible for them. And so, it follows that I think Revolut should refund all the disputed transactions to Mr J.

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 already issued my provisional decision setting out my findings, I invited both parties to provide any further evidence they wished me to consider. Neither party provided any further evidence nor responded to dispute my initial findings. So, I see no reason to depart from my provisional decision.

For all the reasons set out in my provisional decision, I am upholding this complaint.

Putting things right

Revolut should put Mr J back in the position he would've been had the fraudulent transactions not been taken from his account. This means they need to do the following:

- Pay Mr J the total of the disputed transactions and associated fees.

- Pay Mr J 8% simple interest from the date of the disputed transactions to the date of settlement.

If Revolut considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr J how much it's taken off. It should also give Mr J a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

I am upholding the complaint and Revolut Ltd should put things right as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 25 March 2024.

Sienna Mahboobani
Ombudsman