

The complaint

Mr S complains PrePay Technologies Limited, trading as Prepay Solutions, refuses to refund him for transactions on his Monese account he says he didn't authorise.

For ease, I will refer to PrePay Technologies Limited, trading as Prepay Solutions, as Monese in this decision.

What happened

Mr S says his phone was stolen on the morning of 6 August 2023 and used to make two fraudulent transactions via ApplePay. These transactions amounted to £1,243.58. Mr S says he was in Brighton at the time, but the disputed transactions took place in London. He has provided evidence to support his testimony and would like Monese to refund him for the unauthorised transactions.

Monese says it thinks the transactions were made by Mr S or by someone else who Mr S gave his phone and passcodes to. Monese says the transactions via ApplePay would only be possible with Mr S phone passcode or using his biometrics. It has also provided evidence that the Monese app was accessed via passcode before, during and after the transactions in dispute. So, it holds Mr S responsible for these transactions.

Our investigator considered the evidence supplied by both parties and decided to uphold the complaint. Monese didn't agree so the complaint has 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.

I'd like to reassure both parties that although I've only given an overview of what happened, I've read and considered everything we've been provided in its entirety.

When considering what's fair and reasonable, I'm required to take into account relevant law and regulations; the regulator's rules, guidance and standards; the codes of practice; and, where relevant, what I consider good industry practice at the relevant time.

Where there's a dispute about what happened, and 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.

A consumer should only be responsible for transactions made from their account that they've authorised themselves. Mr S has said he didn't give any permission for the transactions in dispute to be made but Monese believes he did. My role then is to give a view on whether I think Mr S more likely than not authorised the transactions, based on the evidence I have available.

Mr S's has provided an account of what happened on 6 August 2023 and has supplied evidence to support this. He says he was assaulted in the early hours of the morning by a group of strangers and knocked out. He says he wasn't sure his phone was stolen at this point, as he thought it might have gotten lost during the attack. Mr S says he blocked his phone using his watch, so he believed no one would be able to access his phone after this. I can imagine that such events would be distressing for anyone and would take some time to recover from before being able to take any action.

Mr S has reported the incident to the police and provided us with the crime reference number. Mr S has also provided evidence that he bought a new phone to replace the device that was stolen.

I've considered the transaction history from 6 August 2023, and I can see that Mr S used his phone to make two ApplePay transactions in Birmingham shortly prior to the time he said it was stolen. Following this Mr S has provided evidence that his Apple ID password was reset, and his Find My Phone feature was disabled. Then the evidence shows there was a large transaction made in London using ApplePay via the stolen device. After this there was a transaction made in Brighton using Mr S's smart watch, and then another transaction made using his stolen phone in London. I've considered this timeline carefully, and I think it's unlikely Mr S would've travelled back and forth from Brighton to London in order to claim fraud on his account.

We have evidence that Mr S's phone was passcode protected and that ApplePay transactions would've needed either Mr S's biometrics or a passcode to authorise the payments. We also have evidence that Mr S's Monese app was accessed via his passcode before, during and after the transactions in dispute. Mr S says he didn't give his passcode to anyone else, and it was not written down on his phone anywhere. So, this case essentially falls on whether it's likely someone else was able to bypass Mr S's passcode for his phone and app and change his security information to carry out these disputed transaction, or Mr S authorised someone else to carry them out on his behalf.

Monese has provided evidence that it reached out to Apple to discuss the possibility of a fraudster being able to access Mr S's device and reset his Apple ID information. The discussion suggests that it would be extremely difficult to get into Mr S's phone without his passcode. It also suggests that it would be difficult to reset Mr S's Apple ID without his account information, but this is still possible.

Based on the evidence outlined above I think it is likely that Mr S's phone was stolen, and I have no persuasive evidence to doubt what Mr S has said about the manner in which this happened. Mr S was attacked in the early hours of the morning and the only item reportedly taken was his phone. So, I think he was targeted specifically for his phone. We have seen a number of cases recently where phones have been stolen after the victim had been shoulder surfed for his phone passcodes and banking app passcodes. And I think this was a possibility in this case. Had the thief seen Mr S's passcode I think they would've been able to change the biometrics on the phone to their own face ID and fingerprint. I think it is also possible that the thief would've been able to change Mr S's AppleID by clicking the forgot password link and receiving a reset link via email, which they could access on Mr S's phone.

Monese have argued that the most likely scenario here is that Mr S carried out these transactions himself. I have thought very carefully about the evidence and the timeline of events. I accept that this is a finely balanced case, and the evidence is contradictory and inconclusive. However, I based on everything I've seen I think it's more likely that these transactions were unauthorised.

I say this because while it is difficult to explain exactly how Mr S's phone passcode and banking app were compromised, I am persuaded by Mr S's testimony and the supporting evidence. I think it is unlikely Mr S would've gone through the trouble of reporting the incident to the police and purchasing a new phone, had his device not been stolen. I also think Mr S would not have gone through the trouble of resetting his Apple ID and disabling the Find My Phone feature to defraud his bank for £1,243.58. Overall, I don't think Monese have provided enough information to persuade me that these transactions were authorised and therefore I think it should refund Mr S the transactions in dispute.

Putting things right

PrePay Technologies Limited, trading as Prepay Solutions (Monese) should refund Mr S the total of the disputed transactions. It should also add 8% simple interest from the date of the transactions till the date it is paid to Mr S.

My final decision

I am upholding the complaint and PrePay Technologies Limited, trading as Prepay Solutions should put things right as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 31 May 2024.

Sienna Mahboobani
Ombudsman