

Complaint

Mr K is unhappy that Monzo Bank Ltd didn't reimburse him after he fell victim to a scam.

Background

Mr K was looking to rent a flat. He found one on an online platform that met his requirements and budget and so he messaged the landlord. Unfortunately, the person who he'd contacted wasn't the genuine owner of that property, but a fraudster. Mr K was sent a tenancy agreement which he signed. The landlord also sent Mr B a photograph of his passport to confirm his identity. I understand Mr K found this reassuring.

Mr K was told that, in order to secure the property, he needed to transfer some rent upfront. He wouldn't be able to view the property until this had happened. He used his Monzo account to transfer a total of £3,800 and agreed to meet the landlord to collect the keys to the flat. After he'd made the transfer, the fraudster broke off all contact and didn't meet Mr K as agreed.

Mr K realised that he must have fallen victim to a scam and so he contacted Monzo. It looked into things but didn't agree to reimburse him. It said that he *"didn't take enough steps to check who [he was] paying and what for."* Mr K was unhappy with that response and so he referred the complaint to us. It was looked at by an Investigator who thought Monzo should've reimbursed Mr K under the CRM Code. She therefore upheld the complaint.

Monzo disagreed with the Investigator's opinion and so the complaint has been passed to me to consider and come to a final decision.

Findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations 2017 and the terms and conditions of the customer's account.

However, that isn't the end of the story. Monzo has agreed to follow the Lending Standards Board's Contingent Reimbursement Model Code ("the CRM code"). This code requires firms to reimburse customers who have been the victim of authorised push payment ("APP") scams in all but a limited number of circumstances.

Under the CRM Code, a firm may choose not to reimburse a customer if it can establish that:

- The customer ignored an effective warning in relation to the payment being made; or
- In all the circumstances at the time of the payment, in particular the characteristics of the Customer and the complexity and sophistication of the APP scam, the customer made the payment without a reasonable basis for believing that: the payee was the person the customer was expecting to pay; the payment was for genuine goods or services; and/or the person or business with whom they transacted was legitimate.¹

Monzo has said it didn't display a warning to Mr K when he was making these payments and so the first exception doesn't apply here.

I've considered whether Monzo could fairly and reasonably rely on the second exception, but I'm not persuaded it can. In other words, I'm satisfied that Mr K had a reasonable basis for believing that this arrangement was a legitimate one. It's worth noting that the relevant test set out in the exception above isn't completely objective. It allows me to take into account the customer's characteristics. That's important to the outcome here, since Mr K was an international student who was unfamiliar with the law and the norms around securing rental property in the UK.

Mr K was asked to sign a seemingly genuine tenancy agreement. This said who the landlord was and, to demonstrate his legitimacy, he was shown a photograph of a passport of a man with that name. I don't find it unreasonable that Mr K was reassured by the steps the landlord took to demonstrate his legitimacy. Furthermore, the price Mr K agreed to pay was generally in line with the prices for rental properties in that area.

The fact that he was asked to pay rent upfront doesn't strike me as unusual either. This is increasingly common, particularly in areas where demand for rental properties is very high and where the tenant might have difficulty meeting referencing and credit check requirements – for example, if they're a student who's recently arrived from overseas.

I accept that there were warning signs here. In particular, the fact that Mr K was told he couldn't even view the property until he'd made payments to the landlord. However, I'm mindful of the fact that there was and is an unprecedentedly high level of competition for homes in the area Mr K wanted to move to and that he had limited knowledge and experience of renting a property in the UK.

While I recognise that some people would be sceptical of the proposal that was made to Mr K, when I take his characteristics as the customer into consideration, I don't think he acted unreasonably here. Overall, as I've found that he had a reasonable basis of belief, I'm satisfied that Monzo should have reimbursed him under the CRM Code.

Final decision

For the reasons I've explained above, I uphold this complaint. If Mr K accepts my decision, Monzo Bank Ltd needs to refund the money he lost to the scam. It also needs to add 8% simple interest per annum to that sum calculated to run from the date it declined his claim under the CRM until the date any settlement is paid.

¹ There are further exceptions within the CRM code, but they don't apply here

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 19 July 2024.

James Kimmitt
Ombudsman