

The complaint

Mr W, on behalf of J, complains that ClearBank Limited (“Tide”) didn’t do enough to protect J when it fell victim to two separate scams.

For ease, I’ll mostly refer to Mr W throughout.

What happened

The details of this complaint are well known to both parties, so I won’t repeat them again here. Instead, I’ll summarise what happened and focus on giving the reasons for my decision.

Mr W made a payment of £1,080 as a deposit for an item in September 2023 (payment one). But when the seller didn’t arrive, he realised he’d been the victim of a scam. He thinks Tide failed in its duty of care and should refund the money lost.

Also in September 2023, Mr W reported a transaction on the account which he hadn’t authorised. This amount was temporarily credited by Tide and it explained that if it didn’t request further information within 60 days the funds would remain in the account. It appears that no further information was requested, so the funds remained in J’s account. While there’s been no loss here, this unauthorised payment forms part of the background for a later scam payment.

On the same day as the unauthorised payment was made, Mr W was contacted by an individual purporting to be from Tide. They persuaded Mr W that J’s account had been compromised and referenced this payment, which persuaded him of the legitimacy of the caller. This led to a payment of just over £3,000 being made (payment two). Mr W said the payment left the account with any contact from Tide.

Tide didn’t consider an intervention to be warranted for payment one. And it said it provided a ‘confirmation of payee’ (“CoP”) warning for payment two, with a follow-up warning. So, it didn’t agree to refund the two amounts lost.

Unhappy with this, Mr W complained to our Service. Our investigator didn’t uphold the complaint. He didn’t think payment one was particularly unusual or suspicious. He didn’t think payment two looked suspicious either, but he also thought the warnings provided by Tide addressed the specific scam Mr W was falling victim to. So, he didn’t think it would be fair to ask Tide to refund the amounts lost.

Mr W disagreed. So, the complaint has been passed to me to decide.

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 done so, while I’m sorry that J has lost out as a result of two cruel and manipulative scams, I’m not upholding this complaint – I’ll explain why.

In broad terms, the starting position is that Tide would have been expected to process payments that a customer authorises it to make, in accordance with the Payment Services Regulations (in this case, the 2017 regulations). In this first instance, J would be presumed liable for the payments.

However, I've thought carefully about whether Tide ought to have taken additional steps, or made additional checks, before processing the payments. But I don't think it should have.

Mr W appears to have been persuaded that the seller involved in payment one was legitimate. He was in communication with them and had arranged to meet. So, I'm not necessarily persuaded that an intervention would have made a difference. But, regardless, I don't consider the payment of £1,080 to be significant enough to have warranted an intervention from Tide. I don't think it can fairly be held responsible for processing this payment.

In terms of payment two, while this was for a much higher sum, I still don't consider this to have been significant enough to have appeared particularly uncharacteristic or suspicious to Tide. The payment wasn't identifiably being made to cryptocurrency and the account the payment was being made from was a business account, where payments might be expected to be higher than with a personal account.

Further to this, I note that Tide made Mr W aware there was a CoP mismatch but that he chose to proceed. Tide then presented a follow-up warning which stated:

"Could someone be trying to scam you?

If either of the following apply, do not proceed with this transaction and contact us immediately:

You've received a call claiming to be from Tide, HMRC or any other financial governmental institution.

You've been pressurised by someone to quickly make this transaction"

This warning mirrored the situation Mr W was in, but he chose to proceed. I do recognise that the caller seemingly having knowledge of the earlier unauthorised payment persuaded him it was genuine. But there's insufficient evidence to determine how the caller would have obtained information about the unauthorised payment. Overall, I don't think I can fairly hold Tide liable, given that I'm satisfied it provided proportionate warnings.

I'm also satisfied that Tide did what it reasonably could to try to recover the funds.

So, while I'm sorry that J has been the victim of scams, I don't think it would be fair or reasonable to hold Tide responsible for its losses.

My final decision

For the reasons given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask J to accept or reject my decision before 23 December 2024.

Melanie Roberts
Ombudsman