

The complaint

Mr Z says Bank of Scotland PLC trading as Halifax (“Halifax”) refuses to refund him for transactions on his account he says he didn’t authorise.

What happened

The facts of this case are well known to both parties, so I won’t repeat them in detail here.

In summary, Mr Z says he didn’t have his phone between sometime on 9 March 2023 till 7 May 2023. And he says during this time there were many unauthorised transactions to gambling websites which he would like Halifax to refund to him.

Halifax says it has carefully considered the evidence but it believes the transactions were carried out by Mr Z and so they will not be refunding any of them.

Our investigator considered the complaint but decided not to uphold it. Mr Z disagreed 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.

Before I outline my decision, I would like to say I am sorry to learn of Mr Z’s current situation. The events surrounding this complaint must be stressful for Mr Z, however I want to assure him that I have carefully considered all the evidence before reaching this outcome. I know this is not the outcome Mr Z is hoping for, but I am not upholding this complaint. I’ll explain why.

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

As detailed by the investigator in the initial outcome, Mr Z has given inconsistent evidence about what happened here. Initially, Mr Z told Halifax that someone else had taken pictures of his debit cards and took his mobile phone, under threat that they would publicise damaging information about him. And following this there were unauthorised transactions on his account. Then after his claim for a refund was denied, he changed the story and said that he had lost his phone in his apartment after being drunk at a friend’s party. In response to the initial outcome, Mr Z says he has been changing his story because he wanted his complaint about the disputed transactions to be investigated again properly. However, this makes Mr Z’s evidence less reliable.

Additionally, I have not seen any persuasive evidence to support what Mr Z has said about not having possession of his device between 9 March 2023 and 7 May 2023 – between

which time the disputed transactions took place. Mr Z has said he was away in China at the time of the disputed transactions and will send evidence of his boarding pass, but at the date of writing no such evidence has been received. He has also not provided evidence to show he tried to block his SIM card or the lost phone. I've also seen evidence of an activity log for his online banking which shows online activity at the same IP address as other activity just days before and after and logins via biometrics, all while Mr Z claimed to be in China and not in possession of his mobile device.

Halifax has provided a lot of evidence to support its decision not to uphold this complaint. And I will set out the main evidence I've relied upon in reaching my decision. The first disputed transactions Mr Z complained about took place on 9 March 2023 between the hours of 2pm to just after 10pm. Halifax has provided evidence to show these transactions were completed entering the correct debit card, CVV and address information for Mr Z and that some of the transactions required a one-time passcode (OTP) which was sent to Mr Z's phone number. Even though Mr Z says he didn't have possession of his phone during this time, I am not persuaded by what he has said as outlined above.

In addition, I've seen that during the hours the disputed transactions were made, the account was receiving incoming funds which were then immediately paid out to the gambling sites, suggesting these transactions were being funded by Mr Z himself. For example, Mr Z received an incoming payment from another account of £1000 (which he has not disputed), and moments after it came into the account £1000 was transferred out (which is in dispute.) There are more examples of this during this period. So, it seems the disputed transactions were funded by Mr Z, and therefore I think it's likely he authorised them.

I've seen evidence that Mr Z's banking app was logged into using biometrics (face ID or fingerprint ID) just minutes before the disputed transactions started and from the same IP address. So, it seems unlikely that someone else was able to take his phone and make these disputed transactions just minutes later at the place as Mr Z, without Mr Z being aware or authorising them himself.

Mr Z also raised a dispute about transactions on his account between 11 April and 18 April 2023. These were also completed with correct debit card details, CVV and address information. Some of these transactions required an OTP which I am satisfied would've been sent to Mr Z's correct phone number. Halifax has provided evidence again to show these transactions were done at the same IP address as other genuine activity and internet banking logins before, during and after the disputed transactions. So, I am not persuaded that these transactions were unauthorised either.

I appreciate this decision will be very upsetting for Mr Z. It's a lot of money, and I understand he's currently in financial difficulty. So, I do have sympathy for his situation. However, considering the evidence supplied this is the only fair outcome I can reach.

My final decision

I am not upholding this complaint.

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

Sienna Mahboobani
Ombudsman