

The complaint

Mrs L has complained that PayPal UK Ltd have held her liable for transactions she says she didn't make or otherwise authorise.

What happened

A new device was added to Mrs L's PayPal account, then three transfers were made to an individual, totalling £850.

Mrs L was sent a notification about the third transaction, and reported the transfers as fraudulent. She cancelled her PayPal direct debit with her bank, so the third payment did not get funded and left her PayPal account in a negative balance. Mrs L reported the matter to the police and Action Fraud, and attempted to contact the third party individual.

PayPal held Mrs L liable for the payments in dispute and have been pursuing her for the negative balance.

Our Investigator looked into things independently and upheld the complaint. PayPal asked for an ombudsman's review, so the complaint's 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.

Broadly speaking, the onus is on PayPal to show that Mrs L consented to the disputed payments, or that she failed to keep her account safe either intentionally or through acting with gross negligence. Otherwise PayPal has to refund the payments.

The main issue, here, is that PayPal has only provided piecemeal evidence, and so has failed to sufficiently back up its claims.

A new device was added to the account just before the disputed payments. Mrs L has explained that she does not use this type of device and does not recognise it. PayPal has not evidenced that this device was properly authenticated when added, nor that it was owned by Mrs L. PayPal also says that the IP addresses used for the disputed activity match genuine activity. But again, this is not reflected in the evidence it actually provided to us – it's not clear who carried out the activity it's claimed to be genuine, and in any case the IP addresses listed have clear differences. As far as I can see, it seems plausible that the disputed activity took place on a new, suspect device using a potentially new connection.

PayPal says that the new device was also used for some genuine payments. But it has not provided evidence which actually shows which devices were used for which payments. And I cannot fairly just take its word for that here.

PayPal showed that a text message was used to authenticate one payment. But it didn't show us which number that was sent to. So for all I know, that was sent to the suspect device. Similarly, PayPal showed that biometrics were used for one of the payments. But it has not actually evidenced whose biometrics those were, or which device that was done on. So for all I know, that was a fraudster's biometrics registered to the suspect device.

So PayPal has not sufficiently evidenced that Mrs L consented to the disputed payments. And I've not found any evidence which shows that she failed to keep her account safe either intentionally or through acting with gross negligence.

On the other hand, the evidence does support the possibility that Mrs L was a victim of fraud. A new device was added just before the disputed payments started, which Mrs L does not recognise, and there was a further attempt to add a new device. Payments were made to an individual who Mrs L does not recognise, under a payment type that would obstruct it being refunded. The individual in question doesn't look very genuine – a search for their name and their company name listed does not yield any results, and I could not find any connection between them and Mrs L. And Mrs L attempted to chase down the recipient. Mrs L reported the matter to the relevant authorities, and gave consistent, plausible testimony, which I've found no good reason to disbelieve.

In summary, PayPal has not sufficiently evidenced that Mrs L consented to the disputed payments, nor that she failed to keep her account safe either intentionally or through acting with gross negligence. It appears that a new device was added, and Mrs L's actions – along with the wider circumstances – are consistent with the payments being unauthorised. As such, I am not reasonably satisfied that PayPal has any fair basis on which to hold Mrs L liable here.

Putting things right

I direct PayPal UK Ltd to:

- Reimburse Mrs L for the £600 of disputed transactions which debited her bank account;
- Pay simple interest to Mrs L on those transactions, at the rate of 8% simple a year, payable from the date they were debited until the date they're reimbursed. This is to compensate Mrs L for the time she didn't have her money.

If PayPal considers that it's required by HM Revenue & Customs (HMRC) to deduct tax from that simple interest, it should tell Mrs L how much tax it's taken off. It should also give Mrs L a tax deduction certificate if she asks for one. Mrs L may be able to reclaim the tax from HMRC if she doesn't normally pay tax.

- Write off/remove the £250 negative balance on the PayPal account, along with any related interest and charges, and make sure that Mrs L is not pursued for this balance; and-
- Permanently remove from Mrs L's credit file any record of the negative balance which was caused by the disputed payments.

My final decision

For the reasons I've explained, I uphold Mrs L's complaint, and direct PayPal UK Ltd to put things right by doing what I've said above.

If Mrs L accepts the final decision, PayPal UK Ltd must carry out the redress within 28 days of the date our service notifies it of the acceptance.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L to accept or reject my decision before 30 December 2024.

Adam Charles
Ombudsman