

The complaint

Mrs K complained because TSB Bank plc refused to refund her for a cash machine withdrawal, after she said she didn't receive the money.

What happened

On 6 March 2024, Mrs K used a cash machine outside a branch of a non-TSB bank. She wanted to withdraw £200 from her TSB account. The machine records show that she entered her card and PIN at 11:04:44. The card was taken out at 11:05:14. At 11:05:30, the machine dispensed 7 x £20 notes and 6 x £10 notes, totalling £200.

Mrs K rang TSB. She said she'd just been scammed out of money out of her account. She said she'd put her card in, and a man behind her kept telling her *"you can't get any money out; don't do this, press this, press this"*. Mrs K said she told him to go away, but he said she'd have to go inside the bank. She took her card and went inside the bank branch and took out £300. She told TSB that she'd then found that the man had withdrawn £200 from her account. She said she didn't know how he'd done it, but he must have put something in afterwards. TSB gave her a temporary credit while it investigated, and it cancelled her card and issued a replacement.

On 25 March, TSB wrote to tell Mrs K that it had now received a response from the machine owner. This had shown that the machine had correctly dispensed the money. So TSB said that it couldn't refund her, and it would be re-debiting the temporary credit on 9 April.

Mrs K didn't agree and made many phone calls, having to repeat what had happened multiple times. She complained, about the outcome and the amount of time she'd spent on many phone calls to TSB.

In TSB's final response letter on 12 April, it said that as the machine owner had shown that the money had dispensed, it wouldn't refund her. It explained there had been 16 seconds between Mrs K taking her card, and the money being correctly dispensed. It also said that the records didn't show that the transaction had been cancelled.

TSB said that it assumed that, due to the irritation from the man behind her, Mrs K had chosen to leave the machine as soon as she'd got her card back. But as the money had dispensed, and she still had her card, it couldn't consider her claim as fraud unless there was evidence to show that the man behind had taken the cash. It suggested she should report this to the police so they could obtain the CCTV footage. It gave her the time and location. It said the police would then contact TSB directly after reviewing the CCTV.

But TSB said it had listened to some of the calls and had seen how many there had been. It apologised that Mrs K had had to keep repeating herself and had been transferred between different departments. It paid her £50 compensation for the distress and inconvenience this had caused her.

Mrs K wasn't satisfied and contacted this service. She explained about the man behind her, who'd been tapping on the machine screen, and had said she couldn't get any money and

would have to go inside the branch. She'd been spooked by the man so she'd taken her card and gone into the branch. She said she wasn't claiming the money hadn't come out, but she hadn't received it. She said TSB hadn't looked at the camera to see that the man had been harassing her. And when she'd reported it to TSB, she'd had to speak to nine people at TSB, and it had also re-debited the money when she didn't have that amount in her account. She also said that she'd reported it to the police.

TSB then offered Mrs K a further £50 compensation, making £100 in total. It said this was because when she'd first got in touch, it should have been reported as fraud, not as a cash machine dispute. This would have meant that Mrs K would have been told sooner that she'd need to contact the police.

Our investigator told Mrs K that she thought TSB's offer was fair. She said that if TSB had handled the complaint correctly when Mrs K had first reported it, she wouldn't have had to spend so much time on the phone to TSB and there would have been less distress and inconvenience, and she'd have received an earlier answer.

But the investigator didn't think TSB had to refund Mrs K for the £200. She said that Mrs K had authorised the withdrawal, using her card and PIN. Even though the man behind her might have tampered with the machine, this wouldn't invalidate Mrs K's consent to the transaction. So she thought it was fair that TSB wouldn't refund Mrs K.

Mrs K didn't agree. She said she had reported the matter to the police, and she believed that TSB and this service needed to look at CCTV to understand the severity of the situation. She said she was really disappointed with TSB as a long-term customer, and had received poor advice from them during her traumatic ordeal. Mrs K asked for an ombudsman's 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'm sorry to hear that Mrs K had such a stressful experience, which must have been very distressing for her.

What the Regulations say

There are regulations which govern disputed transactions. The relevant regulations here are the Payment Services Regulations 2017. In general terms, the bank is liable if the customer didn't authorise the payments, and the customer is liable if they did authorise them.

What's most likely to have happened

It's not disputed that Mrs K authorised the withdrawal. She put her card in, entered her PIN, and entered £200 as the amount requested. So she authorised the payment. As I've explained, under the regulations this would normally mean that Mrs K is liable.

I've gone on to consider the circumstances here. I've listened to the call when Mrs K reported the problem to TSB. She sounds genuinely upset, and I think it's most likely that things did happen as she told TSB – that the man behind her "spooked" her, in her words. When he told her, after she'd withdrawn her card, to go into the branch, she did so. Unfortunately that meant that when the money was dispensed, 16 seconds after Mrs K took her card, she'd already gone. I consider it's most likely that the man took the money which she'd authorised.

I asked TSB why it hadn't considered Mrs K's complaint under its fraud guarantee scheme which was in place at the time of the events. It replied that in order to consider a complaint under its fraud guarantee scheme, it had to be able to evidence that fraud had happened. And it said there was no evidence of that in Mrs K's case. It said she'd requested the money from the machine, used her card and PIN, and had claimed the money hadn't been dispensed to her – but TSB said it only had her word for that. The machine log had shown the money had been dispensed. TSB said that if there had been a person behind her who was distracting her, it would show on CCTV which was why it had asked her to report it to the police, so they could obtain the CCTV from the bank which owned the machine, in order to support her claim.

Although I think it's likely that Mrs K was telling the truth, TSB is correct in saying that there's no solid evidence of a fraud. Her card and PIN were entered and card withdrawn, and the money was dispensed. I've seen the machine records which show all of that, with precise timings. And as I've set out above, the Regulations clearly say that what matters is who authorises a disputed transaction. Here, it was Mrs K who authorised the transaction, so this does mean that she, rather than TSB, is liable for the transaction. It was unfortunate that she walked away in the 16 seconds between card and money being dispensed. But I can't say that TSB was responsible for that.

Compensation for distress and inconvenience

As I've set out above, after Mrs K contacted this service, TSB offered her a further £50 compensation, making £100 in total with the £50 it's already paid her. This was for incorrectly reporting the problem when she first contacted TSB about the problem. I consider that the extra £50 is fair and reasonable and I therefore order TSB to pay Mrs K this.

My final decision

My final decision is that I uphold this complaint in part.

I do not uphold Mrs K's complaint for a refund of the £200 cash machine withdrawal, for the reasons above.

I order TSB Bank Plc to pay Mrs K a further £50 for the distress and inconvenience it caused her, making £100 in total with the money it's already paid her.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 13 December 2024.

Belinda Knight
Ombudsman