

## **The complaint**

Mr S has complained Metro Bank PLC won't refund card transactions made using Apple Pay he didn't make.

## **What happened**

In March 2024 Mr S received a message from Metro asking whether he recognised a card transaction for £191.64 made to an online marketplace. He contacted Metro immediately and told them he'd not made this.

There had already been five transactions of practically an identical amount made to the same retailer preceding this attempted transaction. Mr S asked Metro to refund him for these as he'd not made them.

Metro believed they had sufficient evidence to show an Apple Pay token had been set up on 1 March 2024 and this had been used to make these five disputed payments. They couldn't see any point of compromise for what had occurred.

Mr S brought his complaint to the ombudsman service.

Our investigator was convinced by the evidence Metro shared and told Mr S she wouldn't be asking them to refund him.

Unhappy with this outcome and based on the evidence he'd shared with our service, Mr S asked an ombudsman to consider his complaint.

I completed a provisional decision on 20 January 2025. I didn't agree that Metro had enough evidence to show Mr S had authorised these disputed transactions. I was going to ask them to refund him in full.

Mr S accepted this outcome. I received no response from Metro.

I now have all I need to complete my 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.

Having done so, I've reached the same outcome as in my provisional decision. I'll explain why.

Where there is a dispute about what happened, I have based my decision on the balance of probabilities. In other words, on what I consider is most likely to have happened in the light of the evidence.

It's worth stating that I can choose which weight to place on the different types of evidence I review, including technical evidence, provided by financial institutions along with

complainants' persuasive testimony.

When considering what is fair and reasonable, I'm required to take into account: relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time.

The regulations which are relevant to Mr S's complaint are the Payment Services Regulations 2017 (PSRs). These primarily require banks and financial institutions to refund customers if they didn't make or authorise payments themselves. There are exceptions to this but nothing that is relevant to the details of this complaint.

To help me come to a decision, I've reviewed the evidence Metro provided as well as what Mr S has told us. I've also considered the copies of messages Mr S received from Metro, which I know he also shared with Metro.

I believe Mr S didn't make or authorise the disputed card transactions. I say this because:

- All of Mr S's behaviour has been consistent for someone who's been a victim of fraud. As soon as Metro alerted him to potential fraud, he contacted them to confirm he'd not made this transaction. He shared messages he'd received from Metro confirming Apple Pay had been set up on 1 March.
- The transactions, which were practically five identical transactions to the same retailer, resemble fraudulent transactions. Mr S had no history of using this retailer.
- Metro's own evidence states they weren't convinced Mr S had made these transactions. In fact they stated both *"this token was only used for the fraudulent transactions, and there has been no gen spend on the token"* and *"The spend is not in line with the customer's usual spending habits, and customer has not raised any other fraud claims within the previous 12 months only"*.
- It seems clear to me that Metro refused Mr S's claim purely on a basis that they couldn't see any compromise. I also can't pinpoint exactly how a fraudster (either known or unknown) obtained Mr S's card details but the PSRs don't require me to do so. It's worth stating that card details are not that difficult to find out, so I'm satisfied that there are scenarios which enable a third party to get hold of these.
- Mr S had previously set up Apple Pay and used this regularly. The set up on 1 March 2024 seems to have been a separate token as Metro's evidence confirms.

I disagree with Metro's view that being unable to prove any compromise stops them from accepting that Mr S was a victim of a crime which led to S's card being used without authorisation.

### **Putting things right**

Based on the evidence I've considered I don't believe there's enough to show Mr S made or authorised these transactions. Metro will need to refund £957.15 to him along with 8% simple interest from 2 March 2024.

### **My final decision**

For the reasons given, my final decision is to instruct Metro Bank PLC to:

- Refund £957.15 to Mr S for the disputed card transactions; and

- Add 8% simple interest 2 March 2024 to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 14 March 2025.

Sandra Quinn  
**Ombudsman**