

## **The complaint**

A company which I'll refer to as F, complains that ClearBank Limited ('ClearBank') won't refund the money they lost after falling victim to a scam.

Miss K, who is a director of F, brings the complaint on F's behalf.

## **What happened**

In 2024, Miss K received a call from someone who said they worked for a bank, who I'll refer to as Bank B. The phone number was spoofed, so it matched a genuine phone number for Bank B – but it was a scammer, and it was a safe account scam.

As part of the call, Miss K was asked what other banks F held accounts with. Miss K questioned why they needed this information, and she was told that under open banking they would report the fraud to the other banks.

Miss K says the caller knew her name, date of birth and address. They told Miss K to expect a call from the two other banks that F holds accounts with, including a Tide account offered by ClearBank.

As expected, Miss K received a call from someone who said they worked for Tide. On this call they hadn't spoofed a genuine phone number and showed as a private caller. The scammer referenced Miss K's previous call with Bank B and provided the same reference that Bank B had given her, convincing Miss K that the new caller was legitimately calling from Tide.

The scammer persuaded Miss K that F's Tide account had been compromised, and they needed to immediately close F's old account and open a new one. Miss K was told she needed to move the balance of F's account out in small payments of £500, so the "fraudster" who had compromised the account didn't notice the funds being removed. As a result, Miss K made 40 payments of £500 and a final payment of £40.48 – all in the space of 20 minutes.

After she had made the payments, Miss K was told to download software which the scammer said would remove any viruses from her computer. But, this opened a pop-up window which showed that the scammer could see F's account with Bank B. The call disconnected and the scammer didn't ring back. Miss K realised she couldn't see F's new Tide account and called ClearBank to report the fraud.

ClearBank offered to refund F from payment 20 onwards, saying they should've done more. But they reduced the refund by 50% saying Miss K should've been concerned when she was shown two warnings, and because the scammer didn't spoof Tide's phone number.

Miss K wasn't happy with Tide's response, so she brought a complaint to our service.

An investigator looked into F's complaint and partially upheld it. The investigator agreed that Tide should've intervened when Miss K made payment 20, but wasn't satisfied that F should share responsibility for the loss with Tide. The investigator focused on the persuasiveness of the first call from Bank B, saying Miss K acted reasonably in making the payments – so they recommended a full refund from payment 20 onwards.

Miss K accepted the investigator's opinion on behalf of F, but Tide didn't agree. Tide said Miss K was shown two warnings, which should've concerned her and prevented her from making further payments.

As the case couldn't be resolved informally, it was passed to me to review.

### **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.

In deciding what's fair and reasonable in all the circumstances of a complaint, 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 be good industry practice at the time.

Where there is a dispute about what happened, and the evidence is incomplete or contradictory, I've reached my decision on the balance of probabilities. In other words, on what I consider is most likely to have happened in light of the available evidence.

In broad terms, the starting position at law is that an Electronic Money Institution (EMI) such as ClearBank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (in this case the 2017 regulations) and the terms and conditions of the customer's account.

Here it's not in dispute that the payments were authorised, albeit Miss K did so not realising she was the victim of a scam – but that doesn't make the payments unauthorised. So, the starting position is that Clearbank isn't liable for the transactions.

There are however, some situations where we believe that businesses, taking into account relevant rules, codes and best practice standards, shouldn't have taken their customer's authorisation instruction at "face value" – or should have looked at the wider circumstances surrounding the transaction before making the payment.

Having carefully reviewed the evidence, I've reached the same answer as the investigator and for the same reasons.

### **Should ClearBank have intervened when Miss K made the payments?**

I'm satisfied that ClearBank should've intervened when Miss K made the 20<sup>th</sup> payment on F's account. I say this as every month F made multiple payments in a short space of time related to salaries, this could range from 8 to 10 payments made within a matter of minutes. So, a large number of payments made in a short space of time wasn't unusual activity, however when it reached 20 payments (twice the previous payment pattern) ClearBank should've identified a potential risk of financial harm and intervened. If they had, I think it's more likely than not the scam would've been uncovered as Miss K believed she was already on the phone to the bank, so a call querying the rapid succession of payments would've immediately broken the spell the scammers had on Miss K.

So, I'm satisfied that it's fair for ClearBank to refund F from payment 20 onwards.

But I also have to consider whether Miss K acted reasonably in making the payments, or whether it's fair for F to share responsibility for their loss with ClearBank.

#### Should F share responsibility for their loss with ClearBank?

In considering this point, I've taken into account what the law says about contributory negligence as well as what's fair and reasonable in the circumstances of this complaint.

I'm not satisfied that Miss K should've been concerned when she was making the payments because:

- She only received the call from Tide after she had been called by someone from Bank B, who knew all her personal information, and used a spoofed phone number. They also informed Miss K that she would be getting the call from Tide. So, while the Tide call wasn't on a spoofed number, the previous call with Bank B lent it legitimacy. Also, the Tide caller used the same reference number the Bank B caller had used, which suggested that they were working in tandem and had shared information.
- When the scammer asked what other bank accounts F held, Miss K questioned why this information was needed. The scammer said that through open banking they would share the fraud report so that F's other banks were on notice. Miss K wasn't aware that this isn't how open banking works and found this believable.
- While Miss K was shown a confirmation of payee mismatch, she has explained that this often happens with company names for genuine payments. For example, it could be due to use of Ltd vs Limited in the payee name – which doesn't match with the official account holder name. Miss K says she regularly sees this warning, so wasn't concerned when it came up this time as she believed she was transferring the money to an account in F's name.
- Miss K was shown a new payee warning, but it didn't resonate with her. The warning said:

*"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 or governmental institution".*

Miss K believed she was on the phone to Tide, and the warning doesn't provide any context around safe account scams or how to identify that she might be the victim of one. I'm not satisfied that seeing this warning after receiving a persuasive call from Bank B, meant Miss K shouldn't have made further payments.

- While Miss K made 41 small payments, she questioned this with the scammer, who told her it was so the person who had compromised her account wouldn't notice the money being moved out. Miss K thought this was a viable reason.

Safe account scams work on a sense of urgency. Miss K was told that F's accounts had been compromised and that a fraudster had access to the funds in the accounts. She believed that the only way to protect F's money was to move it from their existing Tide account to a new one.

I realise that ClearBank feel Miss K should've been concerned, but as I've explained above, I think Miss K acted reasonably in for believing what she was being told. This was a sophisticated scam and Miss K hadn't heard of safe account scams before, so she wasn't able to apply the type of knowledge that ClearBank expect of her.

Having carefully considered the evidence, I'm not satisfied that F's refund should be reduced for contributory negligence. So ClearBank should refund 100% from payments 20 onwards.

As F have been without the use of these funds, ClearBank should pay simple interest of 8% on the refund. This should be calculated from the date of the payments until the date of settlement.

#### The level of customer service F received

ClearBank have accepted that they could've provided a better level of customer service to Miss K when she raised the fraud claim on F's behalf. As F is a business entity, they can't suffer distress or inconvenience in the way a personal (individual) customer can. On that basis, I couldn't fairly ask ClearBank to pay any more than the £200 they've already offered F.

#### Recovery of funds

I can see that ClearBank promptly contacted the beneficiary bank when Miss K raised the fraud claim on F's behalf. Unfortunately, no funds were recoverable. I appreciate that the beneficiary bank took some time to respond to ClearBank, but this wasn't due to any delay in ClearBank making them aware of the fraud. So I'm satisfied ClearBank took appropriate steps to try and recover F's funds.

#### **Putting things right**

To put things right I require ClearBank Limited to:

- Refund F the other 50% of their outstanding loss from payments 20 onwards, being £5,270.24
- Pay simple interest on the refund of 8% per year, calculated from the date of the payments until the date of settlement\*

\*If ClearBank considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell F how much it's taken off. It should also give F a tax deduction certificate if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.

#### **My final decision**

My final decision is that I uphold this complaint against ClearBank Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask F to accept or reject my decision before 1 July 2025.

Lisa Lowe  
**Ombudsman**