

## **The complaint**

Miss B has complained Starling Bank Limited won't refund numerous disputed card transactions in November 2023.

## **What happened**

Miss B holds a current account with Starling, as well as other accounts. In December 2023 she complained to Starling that there were numerous transactions which she disputed and believed were gambling transactions. She was concerned at the lack of authentication carried out by Starling which she believed would have stopped a stream of transactions numbering nearly 30, meaning she had lost nearly £7,500.

She told Starling she'd lost her mobile phone in October but as it wasn't worth much, she wasn't too concerned. She also had the Starling app on her work phone (which she retained) until she was instructed to remove the app for security reasons.

Starling wouldn't refund her as they believed their evidence showed it was most likely the validation of the transactions, and the device used, matched the token Miss B used for other non-disputed transactions taking place at the same time.

Miss B has been through serious life events which have caused her mental health issues. She was angry that she wasn't believed and brought her complaint to our service.

Our investigator decided Starling's evidence was sufficient to show Miss B had authorised the transactions.

Unhappy with this outcome and Miss B has asked an ombudsman to consider her complaint.

## **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 our investigator. 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.

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 Miss B'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.

To help me come to a decision, I've reviewed the evidence Starling provided as well as what

Miss B has told us. I've also noted the detail in our investigator's view dated 8 August 2024. I won't be repeating everything that has already been stated.

I believe these disputed transactions which took place between 6 and 16 November were carried out with Miss B's authorisation. I say this because:

- Just before the disputed transactions, Miss B received a substantial credit into her Starling account. During the period of the disputed transactions there remained a large running balance. If an unknown third party had managed to get hold of Miss B's missing phone, as she believes, and was able to access her Starling app, I think it's extremely unlikely they'd only have carried out £7,500 worth of gambling transactions and instead would have emptied her account and transferred funds immediately elsewhere. This didn't happen.
- It's also unusual to see unknown third parties having got hold of phones and card details carry out gambling transactions. Fraudsters are more interested in selling items for financial gain or similar.
- Miss B only notified Starling of these disputed transactions after she got her new phone in December 2023.
- Throughout the period Miss B says she's without her phone, there are undisputed payment transfers made to people she knew. I believe she would have been able to see the loss of this £7,500 by this stage and therefore find it unusual that Miss B didn't report the fraud earlier.
- Evidence provided by Starling shows that the token used to validate transactions, which Miss B disputes, matches the token Miss B used to make many undisputed purchases around this time.
- There is no evidence to show how an unknown third party would be able to access Miss B's biometrics (either face recognition or fingerprint) or the passcode for her Starling app. Whilst I appreciate that fraudsters can and do access phones in an organised manner, the nature of what happened here doesn't suggest this is what took place.
- In February 2024 I can see from Miss B's statements there are several gambling transactions within a short burst of time. These are enabled by Miss B transferring funds from another account she held into her Starling account. So, I'm aware that Miss B has a history of using gambling merchants herself.

Miss B is concerned that a block on gambling within her account didn't pick up these disputed transactions as processed by gambling merchants. As our investigator explained, Starling is only able to identify gambling transactions by merchants who identify themselves using the relevant international card scheme merchant codes. Unfortunately, in some cases offshore gambling companies specifically use other merchant codes, despite this because counter to the rules of the international card schemes.

I know Miss B will find this outcome distressing but I'm unable to ask Starling to refund her as I believe there's enough evidence to show she made these transactions herself.

### **My final decision**

For the reasons given, my final decision is not to uphold Miss B's complaint against Starling Bank Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 9 December 2024.

Sandra Quinn  
**Ombudsman**