

## **The complaint**

Mr C complains Bank of Scotland plc trading as Halifax won't refund two transactions that debited his account which he says he did not make or authorise.

## **What happened**

Mr C contacted Halifax on 22 May 2024 to dispute two cash withdrawal transactions that he said he did not make or authorise.

Halifax decided to hold Mr C liable for these transactions because Mr C's card and PIN had been used, and based on what he'd told them, he still had his debit card and no one else knew his PIN.

Mr C referred his complaint to our service. An Investigator considered the circumstances. She said, in summary, Halifax had provided evidence Mr C's genuine card was used to make the two disputed transactions and the PIN was entered correctly. As Mr C had told us he still had his card after the disputed transactions had taken place and no one knew his PIN, she didn't think Halifax had treated Mr C unfairly by holding him liable for the transactions.

Mr C didn't accept the Investigator's findings. He said he wanted the complaint reviewed again by an Ombudsman. 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.

Under the Payment Services Regulations 2017, generally, Halifax can hold Mr C liable for the disputed transactions if the evidence suggests that he made or authorised the transactions.

Halifax has provided evidence that Mr C's genuine card was used to make the two disputed transactions. I say this as Halifax's evidence shows the chip in Mr C's card was read and our service hasn't seen any evidence the chip in a card can be cloned. This means I'm satisfied Mr C's genuine card was being used, rather than a cloned card. And I'm also satisfied, since the transactions were cash withdrawals, Mr C's correct PIN must have been used. The transactions were both for £395.38 and took place at 12:36am and 12:37am on 22 May 2024. Mr C has told us he still had his debit card after the transactions had taken place, and no one else had access to it. He's told us his PIN wasn't written down anywhere and no one else knows what it is.

The last undisputed use of Mr C's debit card was at 11:45pm on 21 May 2024. So it's possible Mr C could have been observed entering his PIN about an hour before the disputed transactions took place. But there's still the matter of Mr C's card, which he says was never out of his possession, even though Halifax's evidence shows it was used for the cash withdrawals.

There were further attempts to use Mr C's card after the two disputed cash withdrawals. Five further attempts to withdraw more cash from Mr C's account were made between 12:38am and 12:39am – these were all declined because the daily withdrawal limit had already been reached. At 12:41am two attempts were made to use the card in a bar but these were both declined as the bank considered them to be high risk. Again, Halifax's evidence shows Mr C's genuine card was present for these attempts. Mr C has told us he was in another bar at this time, a short walk from the one where the attempted payments were made. Both these patterns of transactions wouldn't be unusual where the card had been obtained by an unauthorised third party but, Mr C says the card was never out of his possession.

Mr C called Halifax at 1:51am on 22 May 2024 to report the transactions and his card was cancelled at 2:26am. There were no further attempts to use it after this point. Although an unknown third party likely wouldn't have known Mr C's card had been cancelled, they might have already decided not to attempt further transactions given the several declined attempts.

For the transactions to have been made without Mr C's involvement, an unknown third party would need to have obtained Mr C's card and PIN, made the transactions and then have returned the card to Mr C – all without him noticing. And that would also mean the person that had taken his card followed him from one bar to another in order to return the card. These don't seem the likely actions of an unknown fraudster. Given that Mr C has insisted the card always remained in his possession, I can't fairly conclude the transactions were made without his authorisation.

### **My final decision**

For the reasons I've explained, I don't uphold Mr C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 30 June 2025.

Eleanor Rippengale  
**Ombudsman**