

The complaint

Ms C complains that ClearBank Limited won't refund the money she lost in an impersonation scam.

Ms C is represented by a third-party, but I will refer just to Ms C for ease of reference.

I understand Ms C's account is operated under the Tide brand, but for ease of reading I'll refer to ClearBank throughout.

What happened

The circumstances that led to this complaint are well known to both parties, so I won't repeat them in detail, instead I've summarised what I consider to be the main points.

Ms C says she was phoned by someone claiming to be from ClearBank, on 17 July 2023. She says she was feeling unwell and had just woken up, but she recognised the phone number as ClearBank's and checked it matched the phone number on her ClearBank debit card. She was told there was a fraudulent transaction on her account and that she needed to transfer her money to a safe account. She says the caller also told her the last four digits of her account number, acted in a professional manner throughout and said they would arrange a replacement debit card, all of which further persuaded her the caller was genuine.

She was asked to make a transfer of £2,500 to an account in a different name to her account and was told this would be her new account name. Ms C made the transfer and was then told to make another, which she did, also for £2,500. She says her phone battery ran out at this point. When her battery had charged, she phoned ClearBank and was informed she had been the victim of a scam.

Ms C says these were two large transactions, to a new payee, made in quick succession and she considers ClearBank ought to have intervened. She also complains ClearBank didn't do enough to recover her money.

ClearBank says the fact that these were transactions made in quick succession to a new payee wouldn't have been sufficient reason to intervene. It says Ms C had set up numerous new payees on her account and had made frequent large payments for similar amounts. It also considered Ms C to have been at fault. In particular, it said she knowingly sent funds to an account that wasn't in her name, she received a confirmation of payee (COP) notification showing a mismatch between the account payee name and account number and she would have received an additional pop-up advising that ClearBank would never call and ask her to move funds to a new account. Ms C says she does not remember seeing the COP mismatch message.

I issued a provisional decision on this case and said I considered Clearbank ought to have intervened on the second transaction. I considered the setting-up of a new payee and one high-value payment might be dismissed as a one-off on a business account, but the second high-value payment, to the same payee, in a short timeframe ought to have been detected. I also considered that if ClearBank had contacted Ms C with tailored questions, the fraud

would have been detected quickly and the second payment would not have been made. This was because the fraud was detected very quickly once Ms C was in contact with the genuine ClearBank and she was able to explain that she had been asked, by someone purporting to be from ClearBank, to move her money to this account.

I considered whether Ms C ought to bear any responsibility for her loss, but overall, I concluded that her actions did not show a lack of care that went beyond that which I would expect from a reasonable person.

I was persuaded that Ms C was caught off-guard, but she did try to check she was speaking to ClearBank, by checking the phone number she was being called on against the number on the back of her card. Unfortunately, the scammer was “spoofing” ClearBank’s number, to make it appear she was receiving a genuine call. Ms C said the scammer was able to quote the last four digits of her account number, which reassured her she was dealing with ClearBank.

I considered that some of the circumstances might have raised suspicion, such as the name of the account Ms C was being asked to move funds to, but I considered the events happened quickly. I was also persuaded by her recollections that the scammer created a sense of panic and urgency. On balance, I could understand how Ms C was persuaded the caller was genuine. Whilst Ms C said she didn’t recall seeing pop-ups and warnings from ClearBank, I considered it likely she did receive them. I thought it likely she simply followed the instructions she was given by the scammer, as she was persuaded that they were genuinely calling from ClearBank, to authorise the payments, in the pressure of the situation. Overall, I didn’t find Ms C’s actions fell below the standard of care I would expect a reasonable person to take in all the circumstances.

Ms C accepted my provisional decision.

ClearBank responded to my provisional decision and said it was willing to accept that it ought to have intervened at the point of the second transaction. It didn’t agree with my view as to whether Ms C ought to bear some responsibility for her loss. It said I had ignored the pop up warning, which specifically said it would never call and ask a customer to move their money from their account. It also reiterated that the payee name didn’t match Ms C’s name nor the name of her business and she received a COP mismatch for the payee. It said that considering the number of red flags Ms C ignored, there ought to be a deduction for contributory negligence.

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.

Since both parties appear to accept my decision that ClearBank ought to have intervened on the second transaction and that such an intervention would have prevented the second transaction from going ahead, I will focus on the issue of contributory negligence.

There were reasons why Ms C was tricked into believing she was dealing with her genuine bank, such as the spoofed phone number and the scammer knowing the last four digits of her account number. I’m satisfied from what Ms C has said that these led her to believe she was dealing with her bank. I also accept she felt under pressure to act quickly.

It’s true that Ms C did not act on the pop-up warning that I think she most likely received. She says she doesn’t recall seeing it and in the circumstances she describes, of feeling under pressure to act and having been convinced she was dealing with her genuine bank, it

seems likely she followed the scammers instructions and made the payment, dismissing the warning.

Ms C says the scammer told her the name of the account that her money would be transferred to would be different. She says she didn't question this as she felt reassured by the scammer. Ms C could have questioned why money was being transferred to a newly set-up account that had been set-up in a different name to her own. But I consider it likely that the combination of panic and urgency to act, combined with the reassurance provided by having checked the caller's phone number against the number on her debit card and the caller knowing some personal detail, having supplied part of her account number, most likely meant she didn't have time to stop and think. So, I don't think the different payee name and a COP mismatch are likely to have caused her concern, when she had been told the new account wasn't in her name.

Overall, I don't consider it would be fair to say, in all the circumstances, that Ms C acted with such carelessness that she fell below the standards of a reasonable person and that it would be reasonable to make a deduction.

Recovery

I said, in my provisional decision, that Ms C contacted ClearBank at 16:01 on 17 July 2023 to report the scam. Following that, ClearBank contacted the receiving bank at 16:24 the same day, to attempt to recover Ms C's money, but it was told no funds remained and it promptly told Ms C. I remain satisfied ClearBank took prompt and appropriate steps to try and recover Ms C's money, but her money had been moved on very quickly.

Putting things right

ClearBank must pay Ms C £2,500 plus interest on that amount, at the rate of 8% simple per year, from the date of the transaction up to 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 Ms C how much it's taken off. It should also give Ms C a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

I uphold this complaint and require ClearBank Limited to put things right as I have directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 24 December 2024.

Greg Barham
Ombudsman