

The complaint

Miss O is a sole trader, trading as B. She complains that ClearBank Limited won't refund a payment she didn't make.

ClearBank partners with Tide to provide accounts for its customers. For ease, I've generally referred to ClearBank in my decision – except when quoting from terms and conditions referencing Tide.

What happened

The details of this complaint are well-known to both parties, but I've summarised the key points about what happened.

In October 2023, Miss O received a call from someone claiming to be from ClearBank. They said there had been fraud on her account. Unfortunately, the caller was actually a scammer. Based on what Miss O told ClearBank when reporting the scam, I understand she was asked to *"accept and decline"* payments and *"authorise a refund"* on her ClearBank app.

After the call ended, Miss O spoke to ClearBank and realised she had been scammed. Two card payments of £11.99 (payment one) and £539 (payment two) were debited from B's account during the scam.

ClearBank agreed to refund Miss O for the first payment, but not the second. It said it wasn't liable as payment two had been authorised via push notification in the ClearBank app. However, it offered £100 compensation for how it had handled the matter.

Miss O referred the matter to our service. She said she hadn't shared her card details with the caller, and hadn't agreed to make any payments.

Our investigator looked into things and concluded Miss O had likely pressed to 'approve' payment two in-app, but on the understanding she was approving a refund. In those circumstances, he didn't think the payment was authorised. He recommended ClearBank should refund payment two (as well as paying the compensation it had offered).

ClearBank appealed the investigator's outcome so the case was passed to me to decide. ClearBank said that, by completing the in-app approval step – which made it clear a payment was being taken – Miss O authorised the payment.

I issued my provisional decision in January 2025 explaining I was minded to conclude payment two was authorised, and that ClearBank wasn't liable to refund it. I thought the compensation ClearBank had proposed was a fair way to settle the complaint.

I asked both parties to provide any further evidence or points for me to consider. ClearBank didn't reply by the deadline I set. Miss O replied to confirm she would accept this outcome.

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.

As I haven't received anything further in response to my provisional decision, I see no reason to depart for it. I've therefore decided ClearBank's offer is a fair way to resolve the complaint, for the reasons set out below.

In line with the relevant legislation – namely, the Payment Services Regulations 2017 (PSRs), the starting position is that Miss O is liable for payments she authorises. And ClearBank would generally be liable for unauthorised payments.

Regulation 67 of the PSRs sets out that a payment is to be regarded as authorised if the account holder consented to the execution of it. That consent must have been given in the form, and in accordance with the procedure, agreed between the account provider and holder.

I've looked at what ClearBank's terms and conditions say about how to consent to a payment – as Miss O signed up to these by opening the account. The relevant section ("Execution of Payment Orders") says:

"The Tide Platform is the primary interface for your Tide Business account. From the Tide Platform or by using your Tide Card, you may instruct a payment order using one of the payment methods made available..."

and:

"You can provide your consent to a Payment Order by using the identified method for giving consent indicated within the Tide Platform interface that you are using, typically a 'Make Payment' button and a verification of the Payment Order, including a fingerprint scan or the submission of a code, as required by the Tide Platform.

The technical data ClearBank has provided shows the payment in question was initiated online using B's card details and was then approved using the 3D Secure (3DS) system. This is an additional security layer for online payments that prompts an additional authentication step, such as approving the payment within the banking app.

Miss O has explained she didn't share B's card details during the scam call. I think it's possible the scammer managed to obtain these in another way prior to the call, such as through a data leak or a phishing attempt. Overall, considering what Miss O has told us, it seems likely it was the scammer who entered the card details online to initiate the payment. But on this occasion, the 3DS system required an additional step to be completed in-app.

I've looked at the screenshots ClearBank has provided showing the steps required when a payment is flagged for an in-app 3Ds check. Miss O would have needed to have accessed the app (which she's explained she did, as prompted by the scammers). A screen would then have been shown titled "verify payment". This set out the last four card digits; the payment amount; the date and time the payment was initiated; and the merchant name. Miss O then had the option of selecting "Approve payment" or "Reject payment". She then had to input her security code to approve the payment.

I'm aware Miss O says that, while she was prompted to use the app, she was mainly selecting to decline payments. However, the technical data persuades me she selected the approve button, and not the reject button, in relation to payment two – otherwise the payment wouldn't have gone through.

In Miss O's initial call to report the scam, she also mentioned that she was, at one point, prompted to select an "approve" option to get a refund. In the context of the scam, I consider it likely Miss O was tricked into approving payment two in this way.

I appreciate Miss O was tricked into completing these steps. But looking at what the terms say about how consent is given, I think the payment should be regarded as authorised under the PSRs. The steps Miss O completed amount to her consenting to the payment. That means the starting position is that Miss O (trading as B) is liable.

I have considered more widely whether there are any other reasons why it would be fair to direct ClearBank to refund the payment. I know Miss O didn't realise she was consenting to a payment due to the tactics of the scammer. However, I'm satisfied the information ClearBank set out in its in-app 3DS screens made it clear that selecting the approve button and then entering her security code would result in a payment leaving the account.

Taking longstanding regulatory expectations and requirements into account, and what I consider to be good industry practice at the time, I also think ClearBank should have been on the look-out for the possibility of fraud. There are some circumstances in which I would expect it to make additional checks before processing a payment.

Here, I'm conscious an in-app 3DS check was completed – providing details of the payment for Miss O to approve or decline. So, this added an extra security layer. I'm not persuaded ClearBank had cause to perform further checks in addition to this. I don't think it had reason to suspect this payment was being made as part of a scam.

I've thought about ClearBank's actions after the scam was reported. Once the payment had been authorised, it couldn't prevent it from being taken. Nor do I think it could have successfully recovered the payment from the merchant via the chargeback scheme. This is a voluntary scheme intended to resolve settlement disputes between consumers and merchants. There are limited rules set by the card-scheme provider (not the bank) about when claims should succeed. Here, it seems the funds were sent to a genuine merchant, who provided the goods ordered – but to a third party. That scenario wouldn't give rise to a successful claim under the chargeback scheme.

I understand how disappointing this will be for Miss O. But in considering ClearBank's role in what happened, I don't think there are reasonable grounds to conclude it should refund her outstanding loss.

Looking at the service provided, I do think ClearBank caused Miss O (trading as B) avoidable distress and inconvenience. There were delays confirming its position, and some of its messaging was confusing. I can see that caused Miss O upset. Thinking about the impact this had, I consider the £100 compensation ClearBank has offered to be a fair reflection of the distress and inconvenience it caused. I therefore think that paying this amount would be a fair way to resolve this complaint

My final decision

ClearBank Limited has already made an offer to pay £100 to settle the complaint and I think this offer is fair in all the circumstances.

So my final decision is that ClearBank Limited should pay B £100.

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

Rachel Loughlin
Ombudsman