

The complaint

Miss B complained because National Westminster Bank Plc refused to refund her for cash withdrawals she said she hadn't made.

What happened

Miss B said that on 29 August 2024, she went to a cash machine and tried to withdraw £500. The transaction was refused because there wasn't enough money in the account.

The next day, Miss B contacted NatWest. She said she hadn't used the account since July 2023, and there should be nearly £15,000 in the account, but the cash machine said there was only £22 in the account. She said she could only assume someone had cloned her debit card, as she hadn't made the withdrawals and still had the card. NatWest's adviser told her that a debit card couldn't be cloned, and how would anyone know her PIN. Miss B said she hadn't withdrawn the money so it must be fraud.

Miss B was put on hold, and she rang again after a long wait. In her second call at 10.25am, she said that she didn't know her PIN, and it was written down somewhere and she had to go hunting for it every time. She said that she hadn't taken money out, so someone else had. The adviser told her it was the genuine card which had been used, but Miss B said there must be another card somewhere. The adviser said there had been regular £250 withdrawals and asked why Miss B had only just noticed it and reported it. Miss B said the card had been in her purse all the time, and said she only got a statement about once a year, and last time there had been nearly £15,000 in the account. The adviser asked if Miss B's friends and family had taken the bank card, and Miss B said no, there must be another card. The adviser told her to contact the police for a crime reference number.

Miss B rang again at 11.49. In reply to the adviser's questions, she said her partner might know her PIN, but no-one had ever used her card. She said she hadn't written down the PIN, and wanted NatWest to get the camera photos for the machines. She asked where the money had been taken out, and when the adviser told her, she confirmed it was her local post office. She said there had to be another card, as hers hadn't been used, but the adviser explained every card had a unique chip. She said she had a statement every six months when everything had been fine, but she hadn't had any more statements since then.

NatWest refused to refund Miss B. The adviser told her this was because of the delay in reporting the transactions over 13 months. Miss B said someone had copied the card as it hadn't been out of her possession, and said someone had to over-ride the decline. She complained.

In a call on 17 October, NatWest's adviser asked whether Miss B's PIN was written down. Miss B said the only thing she'd done was that, because her leg was in a cast and had been for nearly two years, she'd been to a cash machine with her daughter. She'd given her daughter the card and told her the PIN, then taken the card back. She told the adviser she didn't suspect anyone, and that she hadn't had the money and nor had anyone she knew. She said surely all it needed was for someone to look at the CCTV. She said that now she'd received the statements, she'd seen that it had actually started in January 2023, not in July

2023 as she'd originally thought, so the amount was around £18,000. She said she could see someone had been taking money out regularly, but it wasn't her.

NatWest then issued its final response to Miss B's complaint. NatWest said it had reached the right decision to decline the claim of fraud, because of the time lapse in reporting the fraud, no clear compromise of her PIN, or explanation about how someone else had gained access to her card and returned it without her noticing. It also said the pattern of transactions didn't match what NatWest would expect from an opportunistic fraudster, but for security reasons it couldn't divulge what it took into consideration.

NatWest also said that it couldn't investigate any CCTV, which would need to be checked by police.

Miss B wasn't satisfied and contacted this service. She said that she didn't use the account regularly, only for things like car and boiler repairs, and gifts to family. She said she believed the card had been cloned when she'd used it for genuine cash machine transactions between 30 December 2022 and 1 January 2023. She said the amount she'd lost was £18,020, between January 2023 and July 2024, and in this time she'd only made two genuine cash withdrawals which had been in July 2023.

Miss B also said NatWest had refused to request CCTV. She said she hadn't been receiving statements from NatWest, which was why she hadn't known about the thefts earlier. She said she'd have reported it earlier if she'd had statements.

Our investigator didn't uphold Miss B's complaint. He pointed out that Miss B had said different things on her calls with NatWest and with this service:

- On 30 August at 10.25am, that she didn't know her PIN; that it was written down but no-one else had access to her card;
- On 30 August at 11.49, that she didn't suspect anyone in her household but her partner knew her PIN;
- On 17 October, that no-one else knew her PIN;
- In calls with our investigator, that no-one else knew where PIN, and the card was in her purse in her bag. In reply to the investigator's question whether the PIN was written down, Miss B said that it wasn't, but that when the card had been issued it had been written on a piece of paper but that had then been disposed of.

The investigator noted that most transactions had been made between 6am and 7am, and asked if a member of her household could have taken it and returned it before Miss B got up. But she'd said she was the first person up, and she'd have heard someone else.

So the investigator said he couldn't see how anyone else would have found out the PIN and taken and returned the card without being detected. He also said that Miss B had argued that she hadn't received regular statements until after she'd reported the fraud – but NatWest computer evidence had shown that paper statements had been issued to her home address on 13th day of every month. So he couldn't see how Miss B wouldn't have received these.

The investigator concluded that Miss B had authorised the payments herself. He couldn't see how the card or PIN had been compromised, and the withdrawals had taken place over 18 months. A fraudster would have been more likely to withdraw as much money as possible quickly. As he concluded Miss B had authorised the payments, NatWest didn't have to refund her.

Miss B didn't agree.

She said that she'd asked NatWest for the cash machine camera footage for the dates the cash withdrawals had been made, which it had refused to do. She said this would show who had withdrawn the money. She also said she hadn't receive any bank statements for her account, which was why she hadn't reported the theft earlier. She asked what evidence NatWest had to show it had sent out the statements.

Miss B asked for an ombudsman's decision.

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.

What the Regulations say

There are regulations which govern disputed transactions. The relevant regulations here are the Payment Services Regulations 2017. In general terms, the bank is liable if the customer didn't authorise the payments, and the customer is liable if they did authorise them.

The regulations also say that account holders can still be liable for unauthorised payments under certain circumstances – for example if they've failed to keep their details secure to such an extent that it can be termed "*gross negligence*."

Who is most likely to have carried out the disputed transactions?

Miss B has repeatedly said that her card was cloned. Cloning only takes an image of the card, including the magnetic stripe. But it's not generally thought possible to copy the chip embedded in the card, and our service hasn't come across any cases where we felt this was a likely explanation of what happened. Cloned cards have been used for things like telephone or online transactions where the actual card isn't presented. But cloned cards won't work where a card is physically presented – for example in a cash machine – because the chip is read. Chip technology is complex and sophisticated and there have been no known instances when the chip in the card has been successfully copied. If a cash machine reads a card and it's a cloned card which lacks the genuine chip, the transaction will be rejected.

So I accept that the disputed payments here were made using Miss B's genuine card. There wasn't a cloned card involved here.

I've considered how any third party fraudster might have obtained Miss B's genuine card, and found out her PIN. Miss B said that she had her card in her possession, in her purse, throughout the period of the disputed transactions between January 2023 and July 2024, during which time she made two undisputed withdrawals.

If a third party fraudster unknown to Miss B had stolen her genuine card without her knowledge, and used it to withdraw money, it's most unlikely they'd have returned it to her after only withdrawing £250 when at the start of the relevant time there was a lot of money in the account. Returning a card would have involved a risk of being caught, and given the number of withdrawals, any such person would have done this repeatedly. So that's just not likely.

It's also not likely that any third party fraudster could have found out Miss B's PIN. Her evidence has varied about whether or when her PIN was written down, as I've set out above. If she had written down her PIN and kept it with her card, that would be grossly negligent and would breach the terms and conditions of the account, so NatWest wouldn't have to

refund her. But if she hadn't written down her PIN, I can't see how any third party fraudster could have obtained it. There are 10,000 possible combinations of any four-digit number, so it couldn't have been guessed.

I have to consider whether the money might have been taken by one of Miss B's household. They'd have had access to her purse and bag, on a regular basis, with the opportunity to access the card and return it without Miss B's knowledge. The withdrawals were made at machines within a relatively short distance of Miss B's home. And at different times Miss B told NatWest in phone calls that her partner, and her daughter, knew her PIN. But Miss B also told NatWest that she was sure that no-one in her household had made the withdrawals.

Miss B repeatedly asked for CCTV for all the cash withdrawals. CCTV is recorded over after a short time, usually 30 days or less. So by the time Miss B raised the dispute with NatWest on 30 August 2024, CCTV would no longer have been available, even for the last disputed transaction on 16 July 2024. Even if it had been available, CCTV rarely shows clearly what a consumer hopes it will. That's because it would need to show what was being entered in the machine, as well as a clear image at the same time of the person making the withdrawals. But the delay in reporting the dispute means that CCTV would never have been available by the time Miss B first reported it.

I've considered why Miss B didn't report the disputed transactions before the end of August 2024. I've looked at NatWest's computer evidence, which shows that paper statements were issued, to Miss B's correct address, every month on 13th. Miss B hasn't reported any particular problems with post, and even if one or two statements had gone astray in the post, I consider it's unlikely that nearly two years of statements would all have got lost, when they were sent to the correct address.

Miss B's evidence to NatWest and to this service has varied about the statements, at various times saying she had one statement a year; one every six months; or that she never received them. Miss B didn't have online banking. But it's surprising that she didn't query why she wasn't receiving regular statements, if they weren't arriving. That's especially because she had made some genuine withdrawals, so she'd have known the account wasn't completely dormant. I'd have expected her to query this if she genuinely hadn't received the statements. And if she had received them, I'd have expected her to raise the dispute with NatWest much earlier than she did.

Taking all these factors into account, I consider it's more likely than not that Miss B carried out the disputed withdrawals herself. So NatWest doesn't have to refund her.

It's possible that they were instead carried out by a member of her household or someone who visited the home regularly, either with or without Miss B's permission. Any such person could have had the opportunity to take and return the card regularly without Miss B's knowledge. But if this happened, it could only have done so by Miss B disclosing her PIN, either by telling them, or by writing it down. If this is what happened, it would breach the terms and conditions of the account about keeping the card and PIN private and secure, and NatWest still wouldn't have to refund Miss B.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 5 May 2025.

Belinda Knight
Ombudsman