

The complaint

R has complained Zempler Bank Limited Company won't refund them for transactions they didn't authorise.

What happened

Mr L is a director of R. R holds a business account with Zempler. I refer to both R and Mr L throughout this decision because of the nature of this complaint.

In February 2025 Mr L was out with friends. During a night out, Mr L was drugged and found his personal details misused to transfer funds from his accounts and make numerous transactions.

The following day, Mr L raised complaints with Zempler and with the bank that held his personal bank account (where the majority of transactions had been made). He also reported what had happened to the police.

Zempler were unconvinced that Mr L was a victim of fraud. They believed there was a similarity between the disputed payments and normal business payments Mr L made from R's account.

Mr L brought R's complaint to the ombudsman service.

Our investigator felt Zempler hadn't provided enough evidence to show R had authorised these disputed transactions. He asked Zempler to refund £35,210.70 along with 8% simple interest..

Zempler disagreed with this outcome and have asked an ombudsman to consider R's 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 conclusion 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.

It's worth stating that I can choose which weight to place on the different types of evidence I review, including technical evidence, provided by financial institutions along with complainants' persuasive testimony.

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 R'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.

Zempler now appears to agree that Mr L didn't make these transactions but argues that their terms and conditions allow them to keep R liable for these disputed transactions. They're not sure how a third party could have obtained the PIN for the disputed card transactions.

Having reviewed the evidence, I don't believe there is enough to show that R authorised these disputed transactions as required by the PSRs. I say this because:

- I've noted the evidence from Mr L's police report. This confirms "*he was indeed spiked*". This is confirmed by the toxicology report and the police officer dealing with Mr L's crime report. This confirms Mr L was in no position to consent to the transactions.
- Zempler's audit information is limited. So, for example, whilst they state they can't show how the PIN was accessed, I've seen nothing to show the PIN was used. The PSRs require Zempler to demonstrate how a customer could have been grossly negligent. Based on the fact that Mr L was drugged, I can't see they've met this bar. Mr L may have stored his PIN within his phone notes but there's no evidence the fraudsters relied on this. I say this as I can see the fraudsters were able to access Mr L's other account and he's told us this PIN was definitely not stored.
- I have also seen the evidence provided by Mr L's personal bank. I note this confirms the merchant who benefitted from 10 payments from that account appeared to be a rogue merchant. This is the same merchant who received the disputed transaction of £9,860.70 from R's account. I also note Mr L's other bank confirmed there was "*no basis to decline for gross negligence*".
- Zempler has stated "*transferred payments do not offer the same protection that credit card or debit cards payments provide, so retrieval of funds can't be guaranteed regardless of whether you have been the victim of a scam or not*". This seems to suggest Zempler don't understand their obligations under the PSRs. Whilst there are additional consumer protections (like chargeback claims and section 75 for those transactions), other existing codes don't apply to credit or debit card transactions.

Based on the evidence, I will be asking Zempler to refund R for only the three disputed transactions. Other payments made from R's account to Mr L's own bank account have been successfully refunded by that bank already.

This totals £35,210.70. 8% simple interest will need to be added to this from 7 February 2025 to the date of settlement.

My final decision

For the reasons given, my final decision is to instruct Zempler Bank Limited to:

- Refund R for the three disputed transactions; and
- Add 8% simple interest to those amounts from 7 February 2025 to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask R to accept or reject my decision before 25 February 2026.

Sandra Quinn
Ombudsman