

complaint

Mr K feels that 6 Towns Credit Union Limited ("STCU") has treated him unfairly about some transactions that Mr K does not believe he should be responsible for.

background

Mr K is disputing certain transactions made on his account in January 2017 which total thousands of pounds. STCU believes Mr K is responsible for those transactions or authorised them and so is refusing to reimburse Mr K for them.

Mr K brought his complaint here and the adjudicator did not uphold it. Mr K does not agree so this complaint has been passed to me.

my findings

I have considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

STCU and Mr K don't agree what actually happened in this case. As such I can only make my decision based on the evidence provided to me by the two parties. In short I must decide what is most likely to have happened. Or in other words, what happened on the balance of probabilities.

Mr K feels very strongly about this issue. He is adamant that he knows nothing about these 'fraudulent' ATM transactions. He thinks he lost his card on Friday 27th January but didn't realise this until Monday 30th January. Between those times there were twelve ATM transactions on his account which he says he didn't make. He says he hasn't shared his PIN with anyone. He points to being in a restaurant on the Friday where he says he might have been shoulder surfed and hence that's how his Pin was used for these transactions.

On balance I don't uphold Mr K's complaint. I've decided this because:

- I've not seen persuasive evidence of any fault or wrongdoing by STCU.
- These transactions were made by Chip and Pin with Mr K's genuine card. Whoever made these transactions clearly knew Mr K's Pin and had access to his card.
- In this service's experience actual fraudsters empty accounts as quickly as possible for obvious reasons. But this is not the case here. The transactions are spread over three days and the account isn't emptied. Furthermore the transactions are for similar amounts and they were from ATM's near Mr K's address. There doesn't seem to be any spending in shops or elsewhere like we see in many frauds. So these disputed transactions don't seem to fit the pattern of common frauds this service sees.
- Based on the information from STCU the card used was the genuine card and not a copy. The security provided by Chip and Pin is incredibly high. I've never dealt with any cases where I've been persuaded that a Chip and Pin card has been fraudulently duplicated successfully.
- Mr K's comments about what happened when he says he must have lost his card aren't particularly detailed or persuasive in my view. There is no real detail given of how his pin was compromised or when he thinks he lost his card.
- I've considered the actions taken by the person withdrawing the money during the time in question. It is not in line with normal fraudulent behaviour at ATM's in my experience.

I am not persuaded by Mr K's arguments on this matter. I find it more likely that Mr K or someone on his behalf made these disputed transactions. And even if that isn't the case I'm not persuaded STCU should be held responsible for these transactions considering the matter in the round. As such my decision is, on balance, that Mr K isn't entitled to a refund for these transactions from STCU. And so this complaint does not succeed.

Mr K has made mention of his willingness to go to court on the matter. Mr K isn't bound by this decision unless he chooses to be by accepting it. Such action would allow him to pursue the matter through other avenues. But this decision does bring finality to this matter at this service.

My final decision

For the reasons I have explained, while I appreciate this may be a disappointment to Mr K, my final decision is that I do not uphold this complaint against the 6 Towns Credit Union Limited.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr K to let me know whether he accepts or rejects my decision before 10 November 2017.

Rod Glyn-Thomas
ombudsman