

## **complaint**

Mr K has complained that Barclays Bank UK PLC won't refund transactions he says he didn't make or otherwise authorise.

## **background**

I sent my provisional decision on 5 March 2020. A copy of my provisional decision is attached and forms part of this final decision.

My provisional decision sets out the background of this complaint. It explains why I thought it was fair for Barclays to hold Mr K liable for the payments in dispute. I said I'd consider anything else anyone wanted to send me – so long as I received it by 19 March 2020.

Barclays said they had nothing further to add.

Mr K reiterated that he didn't make the transactions, and pointed out that he'd never reported previous gambling losses as fraudulent before. He clarified that while he doesn't know who made the payments and couldn't name anyone in particular who he'd suspect, he did think it was possible that he'd given someone his details in the past, and he suspects that someone he knows did this without his permission.

## **my findings**

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

Having done that, I've come to the same conclusions as before – I'll explain why.

Mr K says he hasn't reported any of his gambling transactions to be fraudulent before, even when he lost money, and I do understand his point. But the disputed transactions were made using his same gambling account that he used for the genuine payments, and were for the same types of games, at a similar level of spending, at a device address that fits with where Mr K lives. So the disputed payments look genuine, too. And I've not seen any evidence to show that Mr K's account was hacked, or anything that makes it seem implausible or unlikely that Mr K could've authorised the payments in dispute.

Mr K now says it's possible that he did give someone the details needed to make these payments, and he suspects that someone he knew made them. But this directly contradicts what he told us before the provisional decision, where he said he'd never shared his card details or gambling account details with anyone he knew. And when we asked if there was anyone he knew who he thought could've logged into his gambling account and used his card details, he said no. So it's difficult for me to take Mr K's latest testimony to be correct.

The person who made these payments needed both Mr K's card details and the login information for his gambling account, which is a fair amount of private information. So it would've been relatively difficult for someone to have got those details without Mr K's permission. And if Mr K had given away such private details to someone, I'd have thought he would remember who they were. Further, I would question *why* Mr K would give someone access to his gambling account and payment information, unless he also gave them consent to make gambling payments on his behalf.

Lastly, as I said in my provisional decision, any winnings would've been paid back to Mr K. So in this particular case, it doesn't seem especially likely that someone would defraud Mr K like this if ultimately any money went back to him and the thief didn't make any profit.

So as before, I don't think it's likely that an unknown party did this; I still don't have anything that makes it seem likely that someone known to Mr K did this without his permission; and the payments otherwise seem genuine. So I think it's most likely that Mr K made the disputed transactions or gave his consent for someone else to use his account. And so I think it's fair for Barclays to hold him liable for the payments in dispute. I know this is not the outcome that Mr K will have been hoping for, but I don't think I can reach any other reasonable conclusion given the evidence I have and the balance of probabilities.

### **my final decision**

For the reasons I've explained above and in my provisional decision, I don't uphold Mr K's complaint about Barclays Bank UK PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 24 April 2020.

Adam Charles  
**ombudsman**

## **COPY OF PROVISIONAL DECISION**

### **complaint**

Mr K has complained that Barclays Bank UK PLC won't refund transactions he says he didn't make or otherwise authorise.

### **background**

Mr K had an online gambling account that he used between 2015 and 2017, spending a total of £52,753 in that time.

In the late night of 1 July 2017 and the early morning of 2 July 2017, Mr K's Barclays credit card was used for six deposits into his online gambling account, totalling £14,200. This was then spent on online games.

Mr K's card got declined later that day, and on 3 July 2017 he called to report this. He was told that the gambling transactions had used up his limit, and he disputed making them.

Mr K says he kept his card in his phone case, hadn't lost it before, and didn't share it or the details with anyone. He says he didn't share his gambling account with anyone, either. He couldn't remember who was living with him, but didn't suspect that anyone he knew could've done this without his permission. Mr K said he got phone calls and texts from someone claiming to be the gambling merchant, asking him for personal details. He says he just hung up, but may have given them some details. He couldn't remember what he'd told them, or when this happened, and no longer had any record of these calls or texts.

The merchant said the account had been logged into with Mr K's genuine username and password. The device address, spending, and games were consistent with Mr K's normal usage. No new withdrawal methods were added, so any winnings would've gone back to Mr K. And in order to make the deposits, the user needed to know the card's three-digit security code. They said they'd tried to call Mr K, but he just hung up, and he never told them that anything was wrong.

Barclays held Mr K liable for the payments in dispute, since they'd been made using his genuine account and card details, and were consistent with his previous payments.

Our investigator looked into things independently, and didn't uphold the complaint. He didn't see a likely way that someone used Mr K's account and card without his permission. And he noted that the spending was similar in nature to Mr K's genuine spending.

Mr K didn't agree, so the complaint's been passed to me to decide.

### **what I've provisionally 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.

Based on what I've seen so far, I'm thinking of coming to the same conclusions as our investigator, and for much the same reasons.

Broadly, Barclays can hold Mr K liable for the payments in dispute if he authorised them. I'm satisfied from Barclays' technical evidence that the payments in dispute used Mr K's genuine card details, and the merchant has confirmed this was a genuine login on his genuine gambling account. This is not enough, on its own, for Barclays to hold Mr K liable. So I also need to think about whether the evidence suggests that it's most likely Mr K consented to the transactions, or not.

Having carefully considered everything that both sides have said and provided, I don't think it's unreasonable for Barclays to hold Mr K liable for the transactions. I'll explain why.

Mr K suggested that the calls and texts he got may have been a fraudster's attempts to get his details. But I've got no evidence showing that these calls or texts happened, or what they involved. And from what the merchant's told us, it sounds like at least some of them really were genuine. Further, Mr K said he hung up and didn't recall giving them any details. The only details he suggested he might have given away – his date of birth and long card number – wouldn't have been useful in making these payments.

While it's possible someone could have hacked Mr K's account, I've not seen any evidence to show that was the case. More importantly, they would've needed his card security code to make these deposits. And since Mr K kept his card with him and hadn't lost it or shared it, and the code wasn't held in the gambling account, I don't see a likely way they knew it without his consent.

Further, the only withdrawal method that was set up for winnings was Mr K's own card. That means any winnings would've been paid to Mr K. It's difficult to see why an unknown thief might make these deposits, if ultimately any money won went back to Mr K and the thief didn't make any profit.

So I don't think it's plausible that an unknown party did this.

It is possible that someone known to Mr K may have made the transactions without his permission. But Mr K didn't give us the details of anyone with access to his home, and said he didn't suspect that anyone he knew could've done this without his permission. So Mr K himself seems to have ruled out this possibility.

The disputed deposits were made from a device whose address fits with where Mr K lives. According to the merchant's information, the deposits were spent on the same type of games that Mr K normally played. And the amounts involved were similar to Mr K's previous spending: despite only using the account very occasionally before this – with gaps in usage of up to nine months – Mr K had spent a total of £52,753 on this account before the disputed transactions. So the disputed deposits look more like Mr K's genuine spending, rather than like payments done without his consent. And I've not seen any evidence that makes it seem implausible or unlikely that Mr K could've authorised these payments or given someone else permission to make them.

In summary, I'm satisfied that Mr K's genuine account and card details were used. Based on the evidence, there isn't a likely way an unknown person did this, and I've not got anything to suggest that someone known to Mr K did this without his permission. Indeed, Mr K himself seems to have ruled out that possibility. That leaves only one likely possibility: that Mr K made the transactions or gave someone else permission to make them – which is consistent with the spending and the way the payments were made. This is a difficult message for me to give, and I know it's a difficult message for Mr K to receive. But given the evidence I have, and the balance of probabilities, I'm unable to reasonably reach any other conclusion.

So based on everything I've seen so far, I currently think it's fair for Barclays to hold Mr K liable for the payments in dispute.

### **my provisional decision**

For the reasons I've explained, I don't plan to uphold Mr K's complaint.

Please could Barclays and Mr K send me any more information or comments to look at by 19 March 2020. After that, I'll reconsider the case.

Adam Charles  
**ombudsman**