

## **complaint**

Miss F complains that National Westminster Bank Plc (NatWest) won't refund her money for numerous card transactions on her account which she says she didn't make or authorise.

## **background**

Miss F is disputing numerous withdrawals from her account in October 2016, totalling over £3,000, which were made using her debit card. She says that she did not make or authorise them. NatWest investigated these transactions but will not refund them. She's also upset by the way the bank treated her whilst it was looking into what had happened.

The adjudicator didn't think this complaint should be upheld. She was satisfied that the genuine card had been used and, taking into account that no-one else knew Miss F's PIN, she said she didn't see how an unknown third party could have carried out the transactions. She also thought that, as Miss F had been checking her account online during the time, she should have seen the transactions and reported it to the bank rather sooner than she did.

Miss F responded to say, in summary, that she didn't think NatWest carried out a full investigation, but jumped to conclusions. She also said that if she'd been checking her account she would have told the bank if she saw the disputed transactions. She was also unhappy that NatWest let the account to go more than £2,500 over her overdraft limit.

## **my findings**

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

### *debit card transactions*

I can't know for certain what happened in this case so I have to reach my decision on the balance of probabilities – in other words, I need to decide what I consider is most likely to have happened given the evidence available.

Miss F believes her debit card was taken from her pocket without her knowledge and used to make a large number of contactless payments, totalling over £3,000. She says the bank never contacted her about this unusual activity. She also says that she couldn't have made the payments herself because she was at work when most of them were made.

I'm satisfied from everything I've seen that the bank did carry out a thorough investigation of this complaint, which was handled by its fraud department. Miss F told the bank she hadn't authorised the disputed transactions and NatWest has provided evidence as to why, on that basis, it considers she must have failed to protect her card details. This includes the fact that:

- the genuine card was used
- many of the transactions were chip and PIN read
- there were no failed PIN attempts
- there was no opportunity for the PIN to be compromised

NatWest has provided detailed records to show that the disputed transactions were made using both the contactless facility and with the PIN. Miss F's genuine card, with its imbedded

chip, was read by the machines through which the transactions were made. So I am happy that her card wasn't cloned. And the actual card was used with the correct PIN each time.

Miss F initially told NatWest that the last card payment that she made was at a petrol station and she entered her PIN to authorise the payment. She says that she was alone and not overlooked her when she did this. Miss F later remembered that she had made another payment the next day at a supermarket. Whilst she thought this was also authorised by entering her PIN, it was a contactless payment. So I'm satisfied that there was no opportunity for her PIN to be compromised. And although Miss F suggests that her PIN could have been compromised anywhere that she used it in the past, I don't consider it very likely that someone would note her PIN on the chance that they may be able to take her card at some point in the future.

Miss F also says that her PIN is not written down anywhere. I see that she has had the same PIN for at least three years so I agree that there isn't a need for her to keep a written record of it. But I find it difficult to understand how someone could have accurately guessed it. It was input correctly on the first disputed transaction and after that. The various cash withdrawals and point of sale purchases were all made in the area and at outlets that Miss F uses.

Three credits were paid into Miss F's account around this time, which she says she doesn't recognise and she didn't pay them in. She says that she couldn't have paid in through the branch of the bank because she was at work at the time. But having checked the time the money was deposited I see that Miss F wasn't actually at work at that time and it would have been possible for her to pay in the money.

If I'm to accept that it wasn't Miss F then the person paying into an account would need to have had Miss F's card and either the sort code and account number or the PIN. Only the sort code is on the card so I can't see how an unknown third party would know the account number. If Miss F didn't pay the money into her account, then the only possible explanation is that she authorised someone else to do it.

#### *online activity*

I have also reviewed Miss F's online banking activity for October. It shows that she checked her account balance more than 40 times during the three days when the disputed transactions were taking place as well as making a direct payment from her account. I accept that most of the transactions that took place on the first day that Miss F says her card went missing were posted to her account overnight and showed on the following day. But Miss F checked her account many times during that second day yet she didn't contact the bank about the unusual activity until very late on the third day. She also received a text message from NatWest about her account early in the morning and still left it another 15 hours before calling the bank. I consider that if Miss F had contacted the bank far sooner than she did, then NatWest would have prevented further spending on her account.

I don't need to decide who withdrew the money from Miss F's account. Given that she says she didn't make the withdrawals (or pay into the account) herself and I'm satisfied her actual card was used, I find I can't safely conclude the payments were made without Miss F's authority, whether directly or implicitly. And, in either case, the bank is entitled to apply the payments to its account and hold Miss F responsible for the withdrawals.

*the bank's systems*

I know Miss F is unhappy the transactions didn't flag on the bank's systems as unusual activity and she thinks they should have done, particularly as it took her account considerably over her overdraft limit. But banks use different fraud detection systems and a number of factors for fraud checks, which change constantly. The nature of such a system and the triggers it uses to pick up payments for checking are, of necessity, confidential – to avoid fraudsters identifying ways to get round the system. And because Miss F's genuine card was used and the PIN was entered correctly, I think it was reasonable for NatWest to consider that these were genuine transactions.

*salary*

NatWest accepts that it gave Miss F wrong information when it told her that she could withdraw her salary when it was received. In fact, because it had taken the decision not to refund the disputed transactions, the account was substantially overdrawn and it didn't allow any withdrawals. But, after Miss F explained that she needed money for essential living expenses, I find she was allowed to withdraw £500 a few days after her salary had been paid in and then the remainder a few weeks later. I'm satisfied that this was fair and reasonable.

I realise that Miss F will be disappointed but, on balance, it wouldn't be fair for me to uphold the complaint and I can't ask NatWest to refund her. The account remains overdrawn and I would urge Miss F to contact NatWest, or its debt agents, to agree an acceptable repayment plan.

**my final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss F to accept or reject my decision before 24 April 2017.

Karen Wharton  
**ombudsman**