

## **complaint**

Mr K complains that Bank of Scotland plc (trading as Halifax) will not refund a disputed debit card transaction on his account.

## **background**

Mr K was staying at a guesthouse and had paid for his stay online through a booking site, using his Halifax debit card. Mr K says that, during the evening, his room was broken into while he was out. There was some damage to the room by the intruders and some of his belongings were stolen.

He reported the break-in to the police but says that the guesthouse owner did not accept his explanation and he later discovered that a further £200 had been taken from his account using his debit card details.

Mr K says that he had not given his authorisation for the further debit and, although he told Halifax that, it did not do anything to recover his money. Halifax says it was not in a position to do anything about the transaction.

As things were not settled, Mr K brought his complaint to this service where an adjudicator investigated it. From the evidence, the adjudicator concluded that neither the booking site used by Mr K nor the guesthouse could show any terms or conditions under which it was entitled to take the second payment from Mr K's account.

Mr K had provided persuasive evidence that he had not caused the damage, and the adjudicator considered that Halifax should have charged-back the payment in the circumstances. He recommended that Halifax pay back the disputed transaction, together with a further £100 to reflect the upset and trouble caused to Mr K by the way it had dealt with things.

Mr K was content with that as a settlement of the complaint, but Halifax was not and said (in summary):

- There were no grounds, under the card scheme rules, for it to charge the transactions back.
- Because Mr K had provided his card details to the booking site, the details were available for use. Mr K should take this up with the merchant and Trading Standards.
- The charge back code mentioned by the adjudicator is fraud-specific and the only other potential grounds related to car hire additional charges – not to hotel stays.

## **my findings**

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

It seems that, in dealing with Mr K's complaint about the disputed transaction, Halifax has focussed entirely on whether or not it has grounds (under the relevant card scheme rules) to charge back the money from the merchant.

But it has apparently not thought at all about the more immediate issue of whether or not it had any mandate from Mr K to make the payment in the first place. Just because Mr K had provided the card information to make his authorised payment of £79 for the overnight stay, that did not mean someone could later use those details to take another £200 out of his account.

I am satisfied that the terms and conditions Mr K signed up to did not give his consent for any addition payment of this type. Given that, I find that Halifax should refund the money that was taken out of Mr K's account without his authority.

The approach that Halifax chose to take in this matter did not take account of the rules that it must apply when dealing with a complaint about an unauthorised transaction. That had a negative impact on Mr K's experience of the complaint procedure.

I accept that Mr K's finances are such that the apparent complete loss of this money caused him worry, and so I consider that an additional payment for that is warranted. I assess the £100 recommended by the adjudicator as a fair and proportionate amount in the particular circumstances of this case.

### **my final decision**

My final decision is that Bank of Scotland plc (trading as Halifax) must:

- refund Mr K's account with the disputed payment of £200, backdated to 22 March 2015 for the purpose of charges and interest; and
- pay Mr K £100.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 9 November 2015.

Jane Hingston  
**ombudsman**