

complaint

Mr H complains Bank of Scotland plc, trading as Halifax, will not refund some disputed transactions.

background

During December 2018, several disputed transactions occurred on Mr H's account. All payments were made to G – an online gambling site. In total, just over £5500 was spent.

Mr H contacted Halifax on 31st December 2018 to complain about these. He said he had not made them and had not provided anyone with his authority to make them. Initially, Halifax refunded the money back into Mr H's account – but following its investigation, the money was re-debited.

Halifax had been in touch with G and it had confirmed someone with Mr H's details – including his address, date of birth and email address – had opened an account with it. G also provided a mobile number it held for the account holder – it was one Mr H had previously registered with Halifax.

On this basis, Halifax rejected Mr H's complaint, so he came to this service.

He told us he hadn't opened the account with G – and he couldn't have made these transactions because on 19th December, he had been on a long-haul flight.

But our investigator didn't think he could ask Halifax to do anymore. He thought Mr H had made these transactions himself – so the matter was passed to me for a final decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint and having done so, I arrive at the same conclusion as the investigator – and for very much the same reasons.

Generally speaking, authorisation requires Halifax to show that these transactions were authenticated as well as consented to – and I remind myself that it's not for Mr H to prove he did not authorise them but for Halifax to show that he did.

In this particular case, I am satisfied from the evidence I have seen that the payments were authenticated. By this I mean, Mr H's correct card details were entered for these transactions to have been made.

But Mr H says he lives alone and has always had his card in his possession. No one else had had access to it. So, I have taken this into account when I go on to consider whether he consented to the payments.

I think the starting point here is to look at who the payments were made to – and how they were made possible.

When this service contacted G, it told us about the online account – but also that Mr H held an account with its retail operations. By this, it means, Mr H had been using its services in its outlets too. The same bank account details were registered with G for the retail account.

So, Mr H has a relationship with G and one which I don't think he fully disclosed to either Halifax or this service. I have also thought carefully about whether this is relevant in making a finding on consent and I think that it is. Because I think, on balance, it suggests it was Mr H who set up the account with G.

In Mr H's submissions he states that the use of an old phone number on the account should be approached with caution and is evidence that a third party set this account up. I'm afraid I don't agree with Mr H. I have not placed much weight on the use of an old phone number.

So, having decided Mr H set the online account up, I'm satisfied that he then went on to carry out the transactions which he now disputes. As he said, he lives alone, the card was always in his possession and he continued to make transactions which he doesn't dispute throughout this same period. I also remind myself that subsequent payments have been made to G which he has not disputed.

I know Mr H makes relies quite heavily on two aspects which he says show these transactions were not him. The first is that there is a discrepancy as to the IP address for when the account was set up and the second is that he has shown us a flight ticket suggesting he was on a long-haul flight on 19th December.

The IP address for the account opening with G suggested the person opening the account was not at or near Mr H's address. Subsequent searches for the same IP address, using a different search engine, suggested the person was in fact closer to his home address.

I've thought about how much weight to place on this piece of evidence – and have decided very little. A search for an IP address carried out by the general public is not always accurate or consistent.

In relation to Mr H being on a flight, I think it is more likely than not that the airline offered on-board wifi – and this would have allowed Mr H the opportunity to continue to use his account with G. I'm afraid I don't think this is conclusive evidence, as Mr H suggests, that he did not carry out these transactions.

So, based on everything I have seen and heard, I think Mr H authorised these transactions and so I won't be asking Halifax to refund them.

my final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 4 December 2020.

Shazia Ahmed
ombudsman