

Complaint

Mr D complains that TransferWise Ltd won't refund disputed transactions made from his account. He's also unhappy TransferWise Ltd blocked his account and didn't release his remaining funds.

Background

Mr D says that fraudulent disputed transactions totalling £2,950.56 were made from his TransferWise Ltd account between 29 April 2018 and 3 June 2018.

Mr D initially contacted TransferWise on the 3 June 2018 to say he'd noticed that fraudulent transactions had taken place on his account starting on the 14 April 2018. Mr D said that he thought he'd lost his card when travelling, but at the same time he's also suggested that his card might have been cloned. On being asked, if he'd lost his card, why he contacted TransferWise on the 26 April 2018 to ask for his card to be unblocked Mr D said he was now only disputing transactions from the 29 April 2018. Mr D also explains he believes the fraudsters may have overlooked the PIN or used a camera to record it.

Mr D's also unhappy that TransferWise blocked his account and restricted access to his funds. On the 3 June 2018 TransferWise decided to review Mr D's account and on the 11 June 2018 it was closed with immediate effect. On the 6 July 2018 Mr D's remaining funds were refunded to him.

TransferWise investigated and decided not to refund Mr D's disputed transactions, saying they believed them to have been authorised by Mr D. TransferWise said they'd acted fairly in closing Mr M's account, relying on Section 25 of the terms and conditions of his account and before releasing Mr M's funds they needed to complete appropriate due diligence.

Mr D wasn't happy with TransferWise's response so brought his complaint to our service.

Our investigator didn't recommend that the transactions should be refunded to Mr D. In summary she felt unable to conclude that the transactions had been made fraudulently, and thought it most likely they'd been authorised by Mr D.

Mr D didn't agree with our investigator's outcome and asked for his case to be reviewed by an ombudsman. So it's been passed to me for a decision.

On reviewing Mr D's complaint, I came to a similar conclusion to our investigator but for slightly different reasons. I issued my Provisional Decision on the 15 April 2020 giving both parties until the 15 May 2020 to provide their response. TransferWise accepted my Provisional Decision without any further comment. Mr D didn't accept my decision, and said he didn't make the transactions.

My Findings

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

In my Provisional Decision I said:

Disputed Transactions:

Generally, TransferWise can hold Mr D liable for the disputed transactions if the evidence suggests that it's more likely than not that he made or authorised them himself.

I'm satisfied from the bank's technical evidence that Mr D's genuine card and PIN were used to make the disputed transactions. But the regulations relevant to this case say that is not, on its own, enough to enable TransferWise to hold him liable. So I also need to think about whether the evidence suggests that it's more likely than not that Mr D consented to the transactions being made.

From what I've seen so far, I don't think it's unreasonable for TransferWise to conclude that Mr D authorised the transactions. This is because:

- Some of the disputed transactions were made using Mr D's genuine card and PIN. But there's no convincing explanation for how a fraudster could have known Mr D's PIN. There are two possible explanations, the first that Mr D's PIN was observed as he suggested. But Mr D last carried out a genuine chip and PIN transaction on the 26 April 2018 which was three days before the first disputed transaction. It seems unlikely a fraudster would wait three days before using Mr D's PIN to carry out a transaction. The second possibility is that Mr D's PIN was viewed via his online account, but for this to be achieved Mr D's online security details would need to have been compromised – which there's no evidence for – and the fraudster would either have needed to use Mr D's usual device or received a text message or phone call on Mr D's phone to confirm their identity. Both of these explanations seem unlikely.*
- Mr D's not been consistent when detailing the transactions which he says he didn't authorise. Initially Mr D said he hadn't carried out any transactions since the 14 April 2018 but later said he was now only disputing transactions since the 29 April 2018.*
- Mr D's been asked to provide evidence for how he funded his expenses during his holiday in Mexico, Columbia and America at the time of the disputed transactions, but he's been unable to do so. Mr D's advised that he used cash earned from his employment, but he hasn't provided bank statements to evidence these withdrawals.*
- I've seen evidence that Mr D was likely to have been present in the locations where the disputed transactions occurred. It seems unlikely that a fraudster would be in the same locations as Mr D, especially when Mr D travelled across a number of countries during this time.*
- It seems unlikely a fraudster would stop using Mr D's card when there were available funds remaining in his account.*
- Mr D reviewed his online banking on three occasions between the 29 April 2018 and the 3 June 2018 but didn't raise the disputed transactions with TransferWise until the 3 June 2018.*

Taking everything into account, on balance, I think it's likely Mr D authorised the disputed transactions and therefore TransferWise are entitled to hold him liable for them.

Account closure and withholding of Mr D's funds:

A bank is entitled to close an account just as a customer may close an account with a bank.

But, before a bank closes an account it must do so in a way, which complies with the terms and conditions of the account.

The terms and conditions of Mr D's account state that there are certain circumstances in which they can immediately close a customer's account. The terms and conditions state:

25. When we can end this agreement or suspend our services

25.2

We may suspend or close your TransferWise account without notice in certain circumstances. We may at any time suspend or close your TransferWise Account and/or end this Agreement without notice if:

- (a) you breach any provision of this agreement or documents referred to in this agreement;*
- (b) we are requested or directed to do so by any competent court of law, government authority, public agency, or law enforcement agency;*
- (c) we have reason to believe you are in breach of any applicable law or regulation; or*
- (d) we have reason to believe you are involved in any fraudulent activity, money laundering, terrorism financing or other criminal or illegal activity.*

Although I appreciate that Mr D is unhappy with the restriction placed on his account, businesses have a legal obligation to protect the security of their accounts and to comply with various laws and regulations. Mr D agreed to this term as a customer and it's a reasonable term. I'm satisfied that TransferWise were acting in line with its legal and regulatory obligations and in accordance with the terms and conditions of the account when it reviewed Mr D's account. Having looked at the account activity I can see why TransferWise had concerns and decided to review his account. So I don't think it's done anything wrong when it blocked Mr D's account and didn't allow him access to his funds.

I realise that this will be disappointing to Mr D and I appreciate that the closure of his account likely caused him inconvenience. But the bank can make commercial decisions about who it offers banking services to. They can't unfairly discriminate against a customer. But, they can decide they no longer want to do business with individuals. That's because they have the commercial freedom to decide who they'd like to contract with. And I'm satisfied that in Mr D's case TransferWise exercised its commercial freedom legitimately when it decided to close his account.

TransferWise accepted my Provisional Decision.

Mr D responded to say, he didn't make the transactions. I've thought about what Mr D's said, but for the reasons I've explained above I think, on balance, Mr D authorised the disputed transactions and therefore TransferWise are entitled to hold him liable for them.

My Final Decision

My final decision is I don't uphold Mr D's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 23 May 2020.

Jeff Burch
ombudsman