

Complaint

Miss A's complained Bank of Scotland plc ('BOS') won't refund transactions she said she didn't make.

background

Miss A opened an account with BOS for the sole purpose of saving for her wedding. She made two deposits into the account in November and March. She said someone withdrew this money from her account in a series of ATM cash withdrawals in June and July.

She asked BOS to refund the money saying the withdrawals were fraudulent.

It said the cash withdrawals were made with her debit card and PIN. And, since she still had her debit card and hadn't disclosed her PIN to anyone else, it couldn't sure the transactions were fraudulent.

It also said the manner of the transactions didn't fit the normal pattern for a fraudster. There was a balance enquiry a week before the first withdrawal, which Miss A denied making. And the withdrawals were made over a four-week period. It said it was unlikely a fraudster would've waited a week before withdrawing the money or held onto the card for so long. A fraudster was more likely to withdraw as much as possible within the shortest time.

Miss A wasn't happy with this response and so she brought her complaint to this service.

Our adjudicator didn't uphold her complaint. She said there was no plausible explanation for how a third party would've known her PIN or taken her card without her knowing.

Miss A disagreed with our adjudicator's view and so this case has come 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. Having done so, I'm afraid I agree with our adjudicator and for broadly the same reasons.

Miss A has consistently said she kept her debit card locked in a safe which she stored under her bed. She said she locks her bedroom door and keeps the key with her. She'd destroyed the PIN advice slip when she received it and memorised the PIN. Also, she's said her PIN wasn't easy to guess and she hadn't disclosed it to anyone.

Yet, the disputed transactions were all carried out with her genuine debit card, which she hadn't reported as stolen, and PIN. I'm afraid I can't reconcile Miss A's version of events with what actually happened. I can't see how an unknown third party could've taken her card and returned it without her noticing it was missing. And there's no evidence of failed attempts at entering the PIN.

I've taken on board Miss A said the account was inactive so the withdrawals were inconsistent with her use of it. And she's said the withdrawals were made late at night when she doesn't go out. But, ultimately, it's the debit card and PIN which are important and there's no explanation for how someone else could've had both.

Based on this evidence, I don't think there's enough evidence the transactions were fraudulent. I think it's likely if she didn't make the transactions, she'd authorised someone else to make them.

In these circumstances, I don't think it's fair to ask BOS to refund her the money.

I'm sorry to disappoint Miss A but I hope I've explained the reasons for my decision clearly.

my final decision

My final decision is I won't be asking Bank of Scotland plc to do anything.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 20 January 2017.

Razia Karim
ombudsman