

complaint

Miss L complains that Bank of Scotland plc (t/a Halifax) won't refund a number of disputed transactions that she says she didn't make or authorise.

background

In June 2013 Miss L withdrew £1,000 from her bank account over a Halifax branch counter. She used her debit card to do so, entering her PIN in the process. Miss L then walked to another bank's branch a few minutes away, and deposited the money into her account held there.

About an hour and a half later Miss L was called by her other bank, to query whether she had carried out an earlier cash withdrawal that day. When Miss L confirmed she hadn't, the other bank cancelled her debit card and refunded the money immediately.

Miss L then realised that her card-holder – in which she had kept both banks' debit cards – was missing from her handbag. Miss L called Halifax to report this and the card was cancelled.

When Miss L received her next monthly statement, she saw that a number of unauthorised withdrawals had been made from her Halifax account. Halifax investigated the transactions, but as they had all been made using the genuine card and correct PIN, said that it wasn't prepared to refund them. Miss L therefore brought her complaint to this service.

Ultimately, the adjudicator who investigated Miss L's complaint didn't recommend that it should be upheld. He couldn't see how an unauthorised third party could have obtained the debit card, and used it – unless they knew the PIN.

As Miss L was sure she hadn't disclosed the PIN to anyone – or written it down – he considered the possibility that someone had seen her enter the PIN in the branch, memorise it, and then go on to steal her card. But given the layout of the branch, he didn't think this was likely. Nor did he think it was likely someone had correctly guessed the PIN after taking the card – which was randomly generated and different from any other PINs Miss L used.

Rejecting the adjudicator's findings, Miss L maintained that she must have been 'shoulder-surfed' in the branch when withdrawing the £1,000, by someone who had then gone on to steal her cards. Miss L said that there had been no shield on the card-machine when she entered her PIN; and that being short, it would have been easy for someone to have seen it.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

The bank can hold Miss L liable for the disputed transactions if she made them or authorised someone else to make them; if they were made by someone who had her card with her consent; or if she didn't take proper care of her card and PIN.

Like the adjudicator, I am satisfied that the disputed card transactions were carried out using Miss L's genuine card. I am also satisfied that the person who carried them out knew Miss L's PIN. Miss L says that she didn't tell anyone her PIN, or keep a record of it. But

Miss L had two debit cards stolen – and used – that day; her Halifax card, and the card belonging to her other bank account provider. So whoever took Miss L's cards, must have known both her different PINs.

Unless Miss L did keep a record of both these PINs, it's difficult to see how an unknown third party could have obtained them. Whilst it seems unlikely – but not impossible – that Miss L was 'shoulder-surfed' in the Halifax branch, this doesn't explain how a thief could also have obtained the PIN for her other card.

When considering the matter overall, I find the most likely scenario is that Miss L did keep a record of the PINs with the cards. And I note that when answering the adjudicator's questions about whether any of her PINs were the same, it was said; *"No, they are all different. I have kept the generated numbers sent by the bank"*.

I still consider this the most probable explanation for how, if Miss L didn't carry out the disputed transactions herself, an unknown third party was able to do so.

For this reason, I don't believe I can fairly direct Halifax to refund the disputed transactions to her. I am also satisfied that the transactions were not sufficiently unusual, such that I can criticise Halifax for not flagging them to Miss L at the time.

my final decision

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

Ashley L B More
ombudsman